

PROFIT AND PRINCIPLE

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VOLUME 139



PROFIT AND PRINCIPLE

*Hugo Grotius, Natural Rights Theories
and the Rise of Dutch Power in the East Indies
1595-1615*

BY

MARTINE JULIA VAN ITTERSUM



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Prof. Peter Borschberg, National University of Singapore.

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For the love of money is the root of all evil: which while some coveted after, they have erred from the faith, and pierced themselves through with many sorrows.

I Timothy 6:10

Parenti et Sorori

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Martine Julia van Ittersum
Netherlands Institute of Advanced Study, 1 June 2005
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INTRODUCTION

This monograph is a study of the interaction of politics and political theory in The Netherlands in the early seventeenth century. Its focal point is the Dutch jurist Hugo Grotius, who developed his rights and contract theories for the benefit of the United Dutch East India Company, otherwise known as the VOC (*Vereenighde Oostindische Compagnie*). Grotius can be regarded as one of the founding fathers of the First Dutch Empire, the seventeenth century global trading network that centered upon the United Provinces, particularly Holland and Zeeland, yet stretched all the way to the Russian port of Murmansk in the north, the Japanese harbor of Nagasaki in the east, Cape Town in the south and New Amsterdam, nowadays known as New York, in the west.

It has been my aim to reconstruct the immediate historical context of Grotius' rights and contract theories, as conceptualized in his early manuscript *De Jure Praedae*/On the Law of Prize and Booty (1604–1606). I argue that Grotius wrote *De Jure Praedae* and published its twelfth chapter as *Mare Liberum*/The Free Sea in response to a set of practical problems faced by the VOC. Studying the relationship between politics and political theory, rather than the purely intellectual context of his works, has allowed me to uncover the political and ideological underpinnings of the Dutch sea-borne empire. Grotius' justification of Dutch interloping in the colonial empires of Spain and Portugal made possible the VOC's dramatic rise to power in the Malay Archipelago in the first quarter of the seventeenth century.

Grotius developed his rights and contract theories for eminently practical purposes. *De Jure Praedae* was a brilliant vindication of the VOC's privateering campaign in the East Indies, as exemplified by Jacob van Heemskerck's capture of a Portuguese merchantman in Singapore Straits in February 1603. Grotius' defense of VOC interests did not stop there. He was extremely successful as a political lobbyist as well. Thanks to his numerous petitions, the Dutch Estates General (i.e. the federal government of the United Provinces) and the Estates of Holland and Zeeland (i.e. the two most important provincial governments) regularly supplied the VOC with warships,



Fig. 1. Map of the Low Countries, ca. 1610.



Fig. 3. Portrait of Maria van Reigersberch, Hugo Grotius' wife.



*Quem sibi quindenis Astræa sacrauit ab annis
'Jalis HUGELIANVS GROTIUS ora fero.*

Fig. 2. Portrait of young Hugo Grotius.

guns and ammunition, while also lending it crucial political and diplomatic support. Grotius' famous plea for freedom of trade and navigation, *Mare Liberum*, appeared at the explicit request of the VOC directors, who were afraid they might otherwise lose out in the diplomatic negotiations between Spain and the United Provinces that resulted in the Twelve Years' Truce (1609–1621). In the face of Spanish demands for a Dutch withdrawal from the East Indies, Grotius argued that freedom of trade and navigation was a natural right, innate to all free peoples, including Dutch merchants and their indigenous trading partners. It should be emphasized that the VOC directors never regarded his rights and contract theories as mere window dressing, a convenient fig leaf for the maximization of profits. The minutes of the board meetings and the instructions which they sent to the East suggest that they did not separate commercial interest from larger political and ideological concerns. Grotius' rights and contract theories encouraged them to forego short-term financial gains for the sake of the common cause, that is the Dutch war of independence against the King of Spain and Portugal, which the VOC valiantly fought out in Asian waters. His political thought continued to inform its policy-making until the end of the Twelve Years' Truce and, in some respects, until its bankruptcy and ignominious collapse in 1795.

Grotius' radical rights theories cannot be divorced from his understanding of contractual obligations and their enforcement. Ironically, this champion of freedom of trade and navigation had no qualms about defending the VOC's commercial monopoly in the Spice Islands at the Anglo-Dutch colonial conferences of 1613 and 1615. He affirmed the validity of the Company's contracts with the infidel rulers of Asia, citing the natural law principle *pacta sunt servanda* (treaties must be honored), which applied to all free and rational human beings, regardless of their religious convictions (or lack of it). Predictably, the VOC's contracts with Asian rulers contained no escape clauses. Once signed, the latter were obliged to ensure that their subjects sold their manufactures (textiles, porcelain, etc.) or agricultural produce (spices, drugs, sandalwood, etc.) to the VOC in perpetuity, usually at a fixed price. To the bewilderment of the English negotiators, Grotius staunchly defended the Company's right to enforce these contracts, even if it meant taking up arms against the natives and, naturally, the English East India Company (EIC). It was the most radical aspect of his rights theory, first formulated in *De Jure*

Praedae. Extrapolating from the right of self-defense, Grotius argued that, in the absence of an independent and effective judge, each private person resumed his sovereign powers and executed judgment in his own cause. Hence the VOC's right to punish indigenous peoples for their failure to abide by the treaties and the English for abetting that 'crime'. The Company's extensive trading network in Asia, with its peculiar mixture of territorial conquest in the Spice Islands and Java, along with the control of key sea lanes elsewhere, is literally unthinkable without Grotius' rights and contract theories.

In this introduction, I will first provide a brief outline of Grotius' eventful life and checkered political career. He was born into the ruling elite of the Dutch Republic but went into exile in 1621. Ironically, this one-time champion of the political and economic interests of the Dutch Republic, particularly his home province of Holland, ended his days as an envoy and adviser of the greatest European monarchs of the time. Following my biographical sketch, I will analyze the response to Grotius' radical rights theories by German natural lawyers and Enlightenment *philosophes*, which resulted in the development of two diverging systems of international relations, one based on the natural law tradition, the other on the growing number of treaties between European states. I will focus in particular on the geographical division of labor between these two systems of international relations: in the aftermath of the Napoleonic wars, German legal scholars designated one system of international relations for the allegedly civilized West and, by default, another for the European and American colonial empires. Next I will show that these practitioners of legal positivism, whose political agenda was extremely conservative, continued to hold sway over the thinking of IR specialists and legal historians in the twentieth century. Improbably, they recast the author of *De Jure Praedae* as the founder of the European states-system and conveniently forgot or ignored his justification of Western imperialism and colonialism. It is precisely this aspect of Grotius' thought which has recently received quite a bit of attention from the Cambridge School of Political Thought. In the view of Richard Tuck, James Tully and David Armitage, the birth of rights theories in the seventeenth century was not incidental to, but constitutive of Dutch and English expansion overseas. Although I share their conclusions, I do have some reservations about the Cambridge School methodology. I will both explicate and critique the Cambridge School methodology in the fourth part of my

introduction. I will then turn to the debates in Dutch academia about the history of the VOC and its bearing on the history of Southeast Asia in the early modern period. In the aftermath of decolonization, Dutch scholars have largely abandoned the study of the political history of the Company. Instead, they use its extensive archives a) to reconstruct the trading systems of the Indian Ocean and China Sea, b) to write the economic and social history of the VOC—its advanced commercial organization contrasted sharply with the short and brutish lives of most of its personnel—and c) to establish the ‘autonomous’ history of Southeast Asia on the basis of ‘hostile’ documents. This approach mistakenly assumes that socioeconomic history can be written without reference to the flotsam of political events and that, consequently, there is no need to study the broad spectrum of religious, cultural and political assumptions that informed the decision-making of one set of actors on the Asian stage, the Dutch and English East India Companies. It leaves unexplained, for example, how the VOC managed to gain control of the key ports, islands and sea lanes in Southeast Asia in the first twenty years of its existence, or why it adopted such an aggressive military and naval strategy. These important questions will receive a preliminary answer in the final part of my introduction, where I will briefly discuss each of the chapters in my monograph.

I *The Life and Times of Hugo Grotius*

Hugo Grotius was born in the town of Delft in the province of Holland in 1583. Only two years earlier, the Dutch Estates General had abjured Philip II of Spain and Portugal as the ruler of the Low Countries. Grotius was a Delft patrician or regent by birth: his ancestors had played an important role in local government since the thirteenth century. His father, Jan de Groot, was an overseer of the University of Leiden, founded in 1575, and a personal friend of Johan van Oldenbarnevelt, Advocate of Holland and *de facto* political leader of the United Provinces. Grotius inherited these political connections. At age eleven, he went to the University of Leiden, where he studied the liberal arts under the aegis of Joseph Justus Scaliger, the foremost humanist scholar of the age. In 1598, Grotius joined a Dutch diplomatic mission to France and purchased a doctorate in law from the University of Orléans. This was a perfectly normal

thing to do for a seventeenth century gentleman on the *grand tour*. At his return home, Grotius set up shop as a solicitor in The Hague and argued civil cases before the Court of Holland (*Hof van Holland*). He did not betray his liberal arts education. So much is clear from his correspondence with Daniel Heinsius, Professor of Latin at the University of Leiden, who assisted Grotius with literary publications of various kinds. In 1601, Grotius was given the opportunity to harness his humanist training to the defense of Dutch national interests. At Oldenbarnevelt's suggestion, the Estates of Holland commissioned him to write a history of the Dutch Revolt against Spain. Three years later, the Amsterdam directors of the VOC asked him to write an apology for their privateering campaign in the East Indies after the spectacular capture of a Portuguese merchantman, the *Santa Catarina*, in Singapore Straits in February 1603. The resulting treatise, *De Jure Praedae*, marked the start of Grotius' long and fruitful career as a political theorist and legal scholar. It remained in manuscript until the nineteenth century, however, with the exception of its twelfth chapter, which was published as *Mare Liberum* in April 1609.¹

Meanwhile Grotius' political career went from strength to strength. At Oldenbarnevelt's behest, he was offered the job of Solicitor General (*Advocaat-Fiscaal*) of Holland in November 1607. This appointment enabled him to marry Maria van Reigersbergh, the daughter of the burgomaster of the port of Veere, nine months later. By all accounts, he was a devoted husband. He and his wife had eight children together, only four of whom survived into adulthood. The marriage also brought Grotius important political connections in Zeeland. In 1613, he succeeded Oldenbarnevelt's own brother as Pensionary (legal adviser) of the town of Rotterdam, which automatically made him a member of the Estates of Holland. Just four years later, he took his seat in the Dutch Estates General as a representative of his home province. Yet his dazzling political rise was cut short by the religious and political troubles that convulsed the United Provinces during the Twelve Years' Truce (1609–1621). Maurice of Nassau,

¹ C.M. Ridderikhoff, 'De Universitaire Studies van Hugo de Groot', Florike Egmond, 'Hugo de Groot en de Hoge Raad: Over Connecties Tussen Geleerden, Kunstenaars, Juristen en Politici' and Harm-Jan van Dam, 'Filoloog en dichter in Leiden' in: *De Hollandse jaren van Hugo de Groot (1583–1621)* ed. H.J.M. Nellen and J. Trapman (Hilversum: Verloren Publishers, 1996) pp. 13–44, 67–86; H.J.M. Nellen, *Hugo de Groot: de loopbaan van een geleerd staatsman* (Weesp, 1985) pp. 10–16.

commander in chief of the Dutch army and navy, committed a coup d'état in the summer of 1618. The Stadtholder of Holland sided with the orthodox Calvinists against the so-called 'Remonstrants', followers of the theologian Arminius, who emphasized the freedom of the will and argued that even the elect could reject the salvation freely offered them by God. Although the 'Remonstrants' were a minority in the Dutch Reformed Church, they enjoyed the support of the Estates of Holland and in particular of Oldenbarnevelt and Grotius. Both of them were arrested on Maurice's orders in August 1618 and convicted of treason by the Dutch Estates General. Following Oldenbarnevelt's execution, Grotius was banished for life to the Dutch castle of Loevestein. Once he regained access to his books and papers, Grotius put his enforced leisure to good use. While imprisoned at Loevestein Castle, he edited his *Introduction to Dutch Jurisprudence* (*Inleiding tot de Hollandsche Rechts-geleertheyd*) and initiated his most famous work of legal scholarship, *De Jure Belli ac Pacis/On the Law of War and Peace*, which appeared in Paris in 1625. His detention came to a dramatic end on 22 March 1621, when he escaped from Loevestein Castle in a book trunk.²

Exile in Paris weighed heavily upon Grotius. The pension that Louis XIII of France had awarded him was only paid intermittently. He corresponded feverishly with family members and political allies in the United Provinces in order to have his 1618 conviction rescinded. In the spring of 1632, he tried to force the authorities' hands by means of a very ostentatious visit to Rotterdam and Amsterdam. Yet the Dutch Estates General refused to budge and adopted a resolution permanently banning him from the United Provinces. Thoroughly humiliated, the German town of Hamburg became Grotius' next port of call. His luck seemed to turn two years later. He went back to Paris as the envoy of the Swedish chancellor Oxenstierna, charged with cementing the ties between two unlikely allies in the Thirty Years' War (1618–1648), Catholic France and Protestant Sweden. Both countries needed each other: without French subsidies, the Swedish armies simply could not keep the Habsburg forces in Germany at bay. Grotius' stint as Swedish ambassador was no success. He

² J.G. Smit, 'De Rotterdamse jaren van Hugo de Groot', A. Th. van Deursen, 'Oldenbarnevelt en Maurits' and H.J.M. Nellen, 'Een tweespan voor de arminiaanse wagen: Grotius and Wtenbogaert' in: *De Hollandse jaren van Hugo de Groot* pp. 125–143, 155–177; Nellen, *Hugo de Groot* pp. 17–37.

failed to win the trust of Cardinal de Richelieu, the first minister of Louis XIII, who used other channels to negotiate with Oxenstierna. In 1645, Grotius was finally recalled to Stockholm, where he was offered a position as royal counselor, which he rejected. (Queen Christina of Sweden was busy assembling the brightest minds of Europe at her court, including the philosopher René Descartes.) No longer an adviser of princes, he embarked on his last voyage across the Baltic Sea. He was shipwrecked off the German port of Rostock, where he died on 28 August 1645 at the age of sixty-two.³

II *Two Systems of International Relations*

Grotius was already fêted as a great legal scholar and intellectual in his own lifetime. Gustavus Adolphus of Sweden, the foremost Protestant hero of the Thirty Years' War, read *De Jure Belli ac Pacis* "most diligently," as Grotius himself noted, and allegedly rode into battle with a copy in his saddlebag. The book was quickly translated into Dutch, French, English and German, and it was reprinted many times: almost fifty editions had appeared of the Latin original alone by the middle of the eighteenth century. In 1661, a chair was established at the University of Heidelberg for the exposition of Grotius' teachings on natural law and the law of nations (*ius naturae et gentium*). Its first occupant was, appropriately, the German jurist Samuel Pufendorf, who had already published a critical response to Grotius, the *Elements of Universal Jurisprudence* (1660). The English rights theorist John Locke occupied the other end of the ideological spectrum. He adopted a deeply Grotian notion of subjective rights and the origins of private property in his *Second Treatise of Government*, which was written in the early 1680s and published in 1690. Significantly, Locke wrote his famous fifth chapter—"Of Property"—in conjunction with his own colonial project, the *Fundamental Constitutions of Carolina*, which he revised in the summer of 1682.⁴

³ Nellen, *Hugo de Groot* pp. 38–72.

⁴ *Briefwisseling van Hugo Grotius* ed. P.C. Molhuysen, B.L. Meulenbroek and H.J.M. Nellen 17 vols. (The Hague, 1928–2001) Vol. 8 p. 804; C. van Vollenhoven, *Verspreide Geschriften* 3 vols. (The Hague: Martinus Nijhoff, 1934) Vol. I p. 251; *Bibliographie des écrits imprimés de Hugo Grotius* ed. Jacob ter Meulen and P.J.J. Diermanse (The Hague: Martinus Nijhoff, 1950) pp. 222–260, 267–275, 280–287, 289–293; Arthur Nussbaum, *A concise history of the law of nations* (New York: Macmillan, 1947) p. 115;

Grotius' reputation remained high in the age of Enlightenment. Copies of *De Jure Belli ac Pacis* were to be found in the libraries of all major thinkers and statesmen on both sides of the Atlantic, including Thomas Jefferson's. Most *philosophes* read it in the French translation of Jean Barbeyrac, a Huguenot scholar at the University of Groningen at the beginning of the eighteenth century. Although they did not necessarily agree with Grotius' views—Kant abhorred his justification of military aggression—they still considered him the foremost representative of the modern school of natural law. In the words of an admirer (Jean Barbeyrac), he had resurrected the 'Science of Morality' on the sound principles of Classical philosophy, particularly those of Cicero and the Stoics, after an allegedly barren interlude of medieval Scholasticism. Yet the eighteenth century understanding of Grotius saw a significant divergence between the European Continent, on the one hand, and Britain and North America on the other.⁵

Grotius' notion of divisible sovereignty, his theory of subjective rights and his account of the origins of private property were perfectly suited to justify the establishment of British colonies on the eastern seaboard of North America and the English East India Company's dual role as trader and ruler in Bengal. This was not lost on Anglophone readers of *De Jure Belli ac Pacis*. According to Grotius and Locke, they acquired property rights through the cultivation of Irish and American soil, as opposed to the natives, who were perceived as 'lazy' and incapable of true labor. Although indigenous peoples were free and *sui juris* to start with, Grotius argued that the natives could sign away all or part of their subjective rights by means of contracts and that they had, in fact, done so already in trade agreements with the Dutch and English East India Companies. The natural law principle *pacta sunt servanda* (treaties must be honored) made it impossible for them to either change or nullify the terms of these contracts unilaterally. In this Grotian framework,

Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: OUP, 1999) pp. 12–13, 144–180; David Armitage, 'John Locke, Carolina and the *Two Treatises of Government*', *Political Theory* 32 (2004) pp. 602–627, particularly pp. 614–620.

⁵ Library of Congress, Washington DC, The Thomas Jefferson Papers Series 1: General Correspondence. 1751–1827, Thomas Jefferson to George Washington, March 18, 1792, and Thomas Jefferson, April 18, 1793; Tuck, *The Rights of War and Peace* pp. 181–225 and *Natural Rights Theories: Their Origin and Development* (Cambridge: Cambridge UP, 1979) pp. 174–175.

British settlers and traders were entitled to use every possible means, including violence, to prevent breach of contract. They enjoyed a subjective right to punish transgressors of the natural law, particularly if they found themselves in a situation that resembled the lawless state of nature, which Grotius himself had explicitly associated with the lands and seas outside of Europe. Finally, they could draw on Grotius' notion of divisible sovereignty when it was either necessary or preferable to establish relationships of dependency with the natives, rather than exercise full sovereignty. The EIC was happy to recognize the suzerainty of the Moghul Emperor in the treaty of Allahabad (1765) as long as it could gather taxes in Bengal, nominally on his behalf.⁶

Not surprisingly, Grotius' justification of Western imperialism and colonialism held few attractions in those parts of Europe that missed out on the riches of the Indies or were obvious battlegrounds in the wars between the continent's most powerful rulers. It should not be forgotten that the history of Western expansion has always involved internal European conquests as well. Significantly, the German critics of Grotius—Pufendorf and Christian Wolff—argued that Indians enjoyed absolute property rights, which could not be usurped by European traders or settlers on any account and certainly not with the flimsy excuse of enforcing some principle of natural law. They saw a clear connection between the dispossession of the native and recent events in German history. It was imperative to avoid a repetition of the Thirty Years' War, when the Holy Roman Empire had fallen prey to the armies of almost every major European power. In the context of the Thirty Years' War, the subjective right to punish transgressors of the natural law served merely as an invitation for the Dutch Republic and the rulers of France, Denmark and Sweden to become involved themselves, on the pretext that they defended the Holy Roman Empire from the 'tyranny' of the Habsburg emperors. Nor did Pufendorf and Wolff fancy the Grotian concept

⁶ Tuck, *Natural Rights Theories* pp. 58–81, *The Rights of War and Peace* pp. 166–196, and *Philosophy and Government, 1572–1651* (Cambridge: Cambridge UP, 1993) pp. 154–201; James Tully, *A Discourse on Property: John Locke and His Adversaries* (Cambridge: Cambridge UP, 1980) pp. 68–72, 80–85, 90, 114, 168 and *An Approach to Political Philosophy: Locke in Contexts* (Cambridge: Cambridge UP, 1993) pp. 137–176; Edward Keene, *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics* (Cambridge: Cambridge UP, 2002) pp. 40–96; Niall Ferguson, *Empire: How Britain Made the Modern World* (Penguin Books, 2004) p. 37.

of divisible sovereignty: they preferred to interpret the Treaty of Westphalia (1648) as an iron-clad guarantee for the freedom and independence of their employers, the Electoral Princes of the Holy Roman Empire, who in theory still owed fealty to the Habsburg Emperor. Jean-Jacques Rousseau and Immanuel Kant went one step further and proposed the establishment of a true society of nations (*societas gentium*), either by means of a federation of mutually tolerant, free and independent states, or by means of the creation of a world state, a civil society incorporating all inhabitants of the earth. Significantly, both scenarios abolished wars of conquest and the subjective right to punish transgressors of the natural law.⁷

German suspicions of the subversive potential of Grotius' theories were confirmed by the French Revolutionary Wars. The crumbling edifice of the Holy Roman Empire could not withstand foreign invasion and the territories of the Electoral Princes became colonial appendages of the First French Republic. In the face of these political and military disasters, German counter-revolutionaries like A.H.L. Heeren, C.W. Koch and F. Schoell were loath to adopt the radical Kantian solution. Their remedy of choice was legal positivism: they started to propagate the notion that the Peace of Westphalia had inaugurated a European states-system, regulated by treaties. In their view, Europe was a constellation of mutually tolerant and fully sovereign entities which did not brook interference in their own domestic affairs. It left very little room for wars fought in the name of the rights of man and the citizen, which suited these counter-revolutionaries just fine. It was their narrow understanding of international relations—a system of states regulated by treaties—that became dominant in the twentieth century. This entailed some strange conceptual twists and turns. Legal historians and IR specialists would project the European states-system backwards in time and attribute its invention to the alleged architect of the Peace of Westphalia, Hugo Grotius.⁸

Notions of subjective rights and divisible sovereignty remained present in textbooks on legal history in both Britain and the US until the end of the nineteenth century. Yet the legal positivism of the

⁷ Tuck, *The Rights of War and Peace* pp. 140–165, 197–225; Anthony Pagden, 'Human Rights, Natural Rights, and Europe's Imperial Legacy', *Political Theory* 31 (2003) pp. 171–199, particularly pp. 187–188.

⁸ Keene, *Beyond the Anarchical Society* pp. 1–39.

German counter-revolutionaries was increasingly seen as the modern (and best) way of doing things, in contrast with the hopelessly antiquated natural law tradition. As a consequence, the rapidly expanding colonial empires in Asia, Africa and the Americas were relegated to the side-show of international relations and frequently put under the heading of 'domestic affairs', that is those of the colonizing powers. Two different kinds of international relations existed side by side. On the one hand, there was a states-system in Europe and the Americas that consisted of fully independent and sovereign entities, which were mutually tolerant towards each other. By the end of the nineteenth century, it included non-Christian nations like China, Japan and Siam as well. On the other hand, the European states continued to govern their colonial empires in accordance with the natural law tradition. They had good reason for doing so. A severe shortage of European manpower meant that they could never govern their nominal subjects in Africa and Asia directly and forced them to use indigenous elites as intermediaries. The Grotian concept of divisible sovereignty was an eminently practical solution to this problem. In the days of the British Raj, the 'vanquished' rulers of India were left in charge of domestic government, for example. Yet they were no longer allowed to command their own armed forces or establish relations with foreign governments. In addition, the British overlord reserved the right to interfere in their affairs in order to enforce what it perceived to be basic principles of civilization—what Rudyard Kipling called "the white man's burden." This was a variation on a by now familiar theme: the subjective right to punish transgressors of the natural law. Under pressure from the abolitionist movement, the government in London put an end to the Atlantic slave trade in 1807, for example, and abolished slavery throughout the British Empire in 1833. Private property rights were considered sacrosanct by the Indian Civil Service. Nor did it tolerate the burning of widows on the funeral pyres of their husbands. The civilization offensive was conceived as a one-way process and strictly limited to the African and Asian colonies. (Nineteenth century American history furnishes the slightly different example of an East Coast elite that imposed its standards for civilized behavior on both the secessionist states in the South, which were forced to abolish slavery, and the Indian tribes of the Great Plains, which were herded into reservations.) At the same time, a very different system of international relations was put into place in Western Europe in an effort

to exorcise the ghost of the French Revolution. It operated on the assumption of the judicial equality of all members of the states-system, and, crucially, it did not sanction interference in a state's domestic affairs on any pretext, let alone the rights of man and the citizen. This conceptual bifurcation has continued to inform international relations in the twentieth century, the establishment of the League of Nations in 1920 and the United Nations in 1945 notwithstanding.⁹

III *A Grotian Tradition in International Law?*

The carnage of the First World War was an incentive for politicians, philanthropists and jurists in America and Western Europe to create supranational institutions that could mediate between states and prevent the outbreak of large-scale military conflict. The Hague Peace Conferences of 1899 and 1907 had already resulted in a Permanent Court of Arbitration, known today as the International Court of Justice. In 1913, it moved to its current location, the Peace Palace in The Hague, which had been built with money donated by the American philanthropist Andrew Carnegie. To this day, Grotius' portrait is prominently displayed in the Peace Palace Library. Nor is it a coincidence that the library boasts the most comprehensive collection of his published works in the world.

Carnegie's financial backing also made possible the publication of the Classics of International Law, edited by James Brown Scott, President of the American Society of International Law. Twenty-two volumes appeared in this series between 1917 and 1950, including three of Grotius' works, *De Jure Praedae*, *Mare Liberum* and *De Jure Belli ac Pacis*. One of the purposes of the series was, in fact, to claim Grotius for the foreign policy of the American president Woodrow Wilson. German legal historians had suggested in World War I that Grotius' defense of freedom of trade and navigation enabled the establishment of a Dutch trading empire in the East and West Indies in the seventeenth century. Moreover, they had denied that the

⁹ *Ibidem* pp. 97–119; W.S.M. Knight, *The Life and Works of Hugo Grotius* (London, 1925) pp. 200–201; Ernest Nys, *Études de Droit International et de Droit Politique*, 2 vols. (Brussel and Paris, 1896–1901) Vol. II pp. 1–46; Josef Kohler, *Grundlagen des Völkerrechts* (Stuttgart, 1918) pp. 49–55.

German U-boat policy was in conflict with the law of war and the law of nations. American arguments to the contrary were considered “a Wilsonian joke.” Not surprisingly, the Latin-English edition of *Mare Liberum* published by the Carnegie Foundation in 1916 explicitly condemned the unrestricted German U-boat attacks on all neutral (i.e. American) shipping.¹⁰

Grotius’ authority was invoked in an equally anachronistic manner by C. van Vollenhoven and W.J.M. van Eysinga, two Dutch jurists who served on the International Court of Justice in the first half of the twentieth century. Both of them believed that *De Jure Belli ac Pacis* sanctioned the international arbitration movement of the late nineteenth century, even though Van Vollenhoven was forced to admit that Grotius had written only “a few eloquent lines” on these issues. He nevertheless regarded Grotius as one of the founding fathers of an international legal order that allegedly punished states if they waged wars of aggression and encouraged them to seek arbitration instead, preferably by submitting their case to the International Court of Justice. When Van Vollenhoven addressed American students at the University of Leiden in 1924, he assured them that “Grotius’ conception materially coincides with the platform of the American League to Enforce Peace (1915), the Covenant of the League of Nations (1919) and, above all, the Geneva Protocol (October 2, 1924).” He was even more outspoken in an article that appeared in the *American Journal of International Law* a year later. He declared that “no book on international law written since Grotius radiates so much love, inspires so much confidence and restfulness to the soul as his book does.” Grotius’ transformation into the Dutch prince of peace was complete. His new role as the titular deity of the Peace Palace in The Hague seemed assured.¹¹

¹⁰ Kohler, *Grundlagen des Völkerrechts* pp. 91, 103; Hugo Grotius, *The Freedom of the Seas or the Right Which Belongs to the Dutch to Take Part in the East Indian Trade* trans. Ralph Van Deman Magoffin (New York: OUP, 1916) pp. v–x.

¹¹ Vollenhoven, *Verspreide Geschriften* Vol. I pp. 387, 389, 391.

W.J.M. van Eysinga and the Dutch historians Johan Huizinga and H.Th. Colenbrander addressed the American students in Leiden on the same occasion. Colenbrander undertook the delicate task of justifying Dutch colonialism and imperialism in the East Indies. He discussed the ‘ethical policy’ of the Dutch colonial government, which, he explained, brought progress and enlightenment to the benighted Indonesians. The Kingdom of the Netherlands was in the happy position

De Jure Belli ac Pacis was appropriated with equal enthusiasm by politicians, legal scholars and IR specialists in twentieth century Great-Britain. A Grotius Society was founded in London in 1915. In the words of Henry Goudy, Regius Professor of Civil Law at Oxford, its purpose was to discuss “the acts of the belligerent and neutral States in the present war and the problems to which it almost daily is giving birth.” The American President Woodrow Wilson and James Brown Scott were elected honorary members in 1920. The first modern biography of Grotius in the English language was published five years later by the barrister W.S.M. Knight, a regular contributor to the *Transactions of the Grotius Society*. Even the collapse of the League of Nations on the eve of the Second World War could not shake the belief of British legal scholars and IR specialists in the viability of an ‘international society of states’, which they attributed to Grotius as, allegedly, its most eloquent defender.¹²

One of the foremost representatives of the so-called English School in International Law was Sir Hersch Lauterpacht, who taught international law at the University of Cambridge from 1937 until 1955 and then served as a judge on the International Court of Justice until 1960. He published an influential article in 1946 expounding

of being “an empire without imperialism.” Eysinga seized the moral high ground as well. His lecture emphasized the unique role that a small and supposedly peaceful nation-state, which abstained from “noisy and dangerous world politics,” could play in international relations. If only the great powers had resorted to Dutch mediation, it would have been possible to avoid such wars of aggression as World War I. For Eysinga, Holland was the “centre of world jurisdiction”: the judges on the International Court of Justice profited from the country’s “non-political atmosphere” and could always retire to the Peace Palace Library to “refresh the serenity of their minds,” preferably by reading “Grotius’ serene books on war and peace.” Eysinga expressed his admiration for Grotius in equally florid prose in a 1925 article: “J’ai nommé le livre de 1625, le *De Jure Belli ac Pacis Libri Tres*, ce livre éminemment humain et d’une valeur extraordinaire sous tous les rapports un des livres les plus actuels qui aient jamais été écrits, ce livre qui rappelle le choeur final de la neuvième symphonie de Beethoven, dont il pourrait porter comme motto le: “Seid umschlungen Millionen, diesen Kuss der ganzen Welt.”

Compare *Lectures on Holland delivered in the University of Leyden during the First Netherlands Week for American Students, July 7–12, 1924* (Leiden: Sijthoff’s Publishing Company, 1924) pp. 19–47; 101–119; Anton van der Lem, *Het Eeuwige verbeeld in een afgehaald bed: Huizinga en de Nederlandse beschaving* (Amsterdam: Wereldbibliotheek, 1997) pp. 126–127; W.J.M. van Eysinga, *Sparsa Collecta*, ed. F.M. van Asbeck, E.N. van Kleffens, K.P. van der Mandele and J.R. Stellinga (Leiden: Sijthoff, 1958) p. 125.

¹² Norman C. Marsh, ‘The British Institute of International and Comparative Law: its Heritage’, paper read at the 40th anniversary of the British Institute of International and Comparative Law in London, 17 November 1998; W.S.M. Knight, *The Life and Works of Hugo Grotius* (London, 1925).

the 'Grotian tradition in international law', which, significantly, included quite a few references to Van Vollenhove's publications. In Lauterpach's reading, the author of *De Jure Belli ac Pacis* had rejected reason of state arguments and defined the totality of relations between states as governed by law. In addition, he credited Grotius with the notion that the social nature of man was the fundamental principle of natural law and that 'international society' originated in, and derived its legitimacy from, the international community of mankind.¹³

Lauterpach's ideas were developed further by the British historian Martin Wight and subsequently by Hedley Bull, Professor of International Relations at Oxford University from 1977 until 1985. Wight discerned three traditions of 'international theory': realism, rationalism and revolutionism, each of which had its own particular conception of international society, the sources of international law, its binding nature for states (or lack of it) and so forth. Grotius was supposed to represent the *via media* between the extremes on the one hand of Hobbes and Machiavelli, who allegedly conceived of international relations as anarchy, and on the other of Immanuel Kant, who equated international society with the community of mankind, a *civitas maxima*. Yet Wight admitted that Grotius' views on a whole range of issues did not fit the three-partite scheme and could at best be called 'eclectic'. He noted that Grotius derived international law from both natural and positive sources (i.e. philosophical principles and treaties), that Grotius conceived of international society as relations not just between states but between private individuals as well. He observed furthermore that Grotius came perilously close to a 'realist' position when he argued that states, like individuals in the state of nature, had originally enjoyed a perfect liberty.¹⁴

Wight's three-partite scheme was elaborated by Hedley Bull, who reformulated the 'Grotian tradition in international law' in an exceedingly narrow and conservative fashion. Bull reduced 'international society' to relations between states pure and simple and argued that

¹³ H. Lauterpach, 'The Grotian Tradition in International Law', *The British Yearbook of International Law* 23 (1946), pp. 1-53; Keene, *Beyond the Anarchical Society* pp. 36-37.

¹⁴ Martin Wight, 'Western Values in International Relations' and Hedley Bull, 'The Grotian Conception of International Society' in: *Diplomatic Investigations: Essays in the Theory of International Relations* ed. Herbert Butterfield and Martin Wight (London, 1966) pp. 50-72, 89-131, particularly 51-52, 69-73, 89-95, 105; Keene, *Beyond the Anarchical Society* pp. 29-32.

Grotius had understood state sovereignty in the same manner as Jean Bodin and Thomas Hobbes. He explained away Grotius' apparent lack of interest in supranational institutions as a quaint medieval relic—"in Grotius' time, these institutions only existed in embryo."¹⁵ Unlike Lauterpacht, he did not believe that states could reach anything more than a minimal consensus about the enforcement of international law. He felt extremely uneasy at Lauterpacht's suggestion that interference in the domestic affairs of states was occasionally warranted in order to enforce human rights. In Lauterpacht's view, this was simply another way to protect the international community of mankind, which was, after all, the basis of the international society of states. Bull demurred:

[i]f a right of intervention is proclaimed for the purpose of enforcing standards of conduct, and yet no consensus exists in the international community governing its use, then the door is open to interventions by particular states using such a right as a pretext, and the principle of territorial sovereignty is placed in jeopardy.¹⁶

Significantly, Bull conceptualized the era of decolonization as the European states-system spreading itself around the globe, primarily through the admission of new members, that is the Asian and African states who had recently achieved independence from European 'mother' countries. Nor did he take seriously the objections raised by Charles Alexandrowicz in *An Introduction to the History of the Law of Nations in the East Indies (16th, 17th and 18th centuries)*, published in 1967. Alexandrowicz pointed out that Europe's former colonies in Asia and Africa had been free and independent countries in the early modern period and that they had been included in the *societas gentium* by, yes, Grotius. This idea was anathema to Bull and for good reason—it threatened to undermine much of his own theorizing on international relations. He repeated that there could be no such thing as a universal international society before 1800. In his view, European and non-European states had lacked "a perception of common interests," and had not yet been united by a "structure of generally agreed rules setting out their rights and duties in rela-

¹⁵ Hedley Bull, 'The Importance of Grotius in the Study of International Relations' in: *Hugo Grotius and International Relations*, ed. Hedley Bull, Benedict Kingsbury, and Adam Roberts (Oxford: Clarendon Press, 1990) pp. 65–93, particularly p. 90.

¹⁶ Bull, 'The Grotian Conception of International Society' p. 71.

tion to one another.” They certainly had not been actively engaged in “the working of common international institutions.” By ignoring the natural law tradition of early modern Europe, Bull effectively reduced the history of international relations to the creation of the European states-system.¹⁷

In Bull’s reformulation of the ‘Grotian tradition in international law’, the concept of international society is identified exclusively with the states-system that first came into being in Europe in the nineteenth century and then spread around the world in the era of decolonization. As Edward Keene points out in *Beyond the Anarchical Society* (2002), this is a rather one-dimensional view of international relations. It fails to do justice, for instance, to the complexity of dependency relations between people(s) in every part of the globe in both the distant and immediate past. Nor does it account for the variety of Western and non-Western justifications of these dependency relations. Dutch and English expansion overseas in the early modern period is literally inconceivable without Grotius’ natural law and natural rights theories, for example. In time, Grotius’ political theories resulted in a qualitatively different treatment of indigenous rulers by European settlers and traders. The calls for democratization and popular sovereignty that transformed both domestic and international politics in nineteenth century Europe and America went largely unheeded by European colonial officials in Asia and Africa until the Second World War.¹⁸

¹⁷ *The Expansion of International Society* ed. Hedley Bull and Adam Watson (Oxford: Clarendon Press, 1984) pp. 2, 6–7, 117, 123–124; C.H. Alexandrowicz, *An Introduction to the History of the Law of Nations in the East Indies (16th, 17th and 18th centuries)* (Oxford: Clarendon Press, 1967) pp. 45–46.

Bull declared in the same essay chapter that “the universal international society of mankind contained in the doctrine of natural law was a merely conceptual or theoretical one.” Yet he recognized that “the evolution of the European system of interstate relations and the expansion of Europe across the globe were simultaneous processes, which influenced and affected each other.” Nor did he deny that two sets of international relations existed side-by-side into the 20th century, marked by the “survival, alongside the concept of a society of equally sovereign states, of the older and historically much more ubiquitous concept of international relations as the relations between suzerains and vassals.” He refused to conceptualize the latter as a *societas gentium*, however, and failed to relate it to the natural law tradition, which was at the root of European colonial policies. Compare *The Expansion of International Society* ed. Bull and Watson pp. 120, 6, and 126.

¹⁸ Keene, *Beyond the Anarchical Society* pp. 22–39; R.R. Palmer, *The Age of the Democratic Revolution: A Political History of Europe and America, 1760–1800* 2 vols. (Princeton, N.J.: Princeton UP, 1959–1964) *passim*.

IV *The Cambridge School of Political Thought*

While legal scholars and IR specialists have made Grotius the patron saint of the modern states-system, historians of political thought have taken a less sanguine view of his legacy to the modern world. In recent years, the Cambridge School of Political Thought has explored the “dark side of rights theories,” and shown that the political thought of Grotius, Hobbes and Locke form the building blocks of Western imperialism and colonialism. Both Richard Tuck and James Tully have emphasized the radical nature of Grotius’ rights and contract theories, which largely served to justify the dispossession of the native. European settlers and traders benefited greatly from Grotius’ endorsement of absolute property rights and his insistence on the inviolability of contracts, even if it resulted in the enslavement of one of the (non-European) signatories. Crucially, Grotius was the first to defend the right of private persons to punish transgressors of the natural law in the absence of an independent and effective judge. It proved a powerful weapon in the hands of the Dutch and English East India Companies, which established their global empires of trade in the face of both Iberian and Indian opposition. David Armitage agrees with Tuck and Tully that British imperialism and colonialism cannot be explained without reference to Grotian political theory. In his view, the concept of freedom of trade and navigation as formulated in *Mare Liberum* (1609) was absolutely indispensable to English merchants engaged in the Russia, Levant, Guinea and Indies trades, if only because the Royal Navy limited its operations to home-waters for the best part of the sixteenth and seventeenth centuries. Nor did it seem advisable for English interlopers in the Iberian colonial empires to claim any kind of *dominium maris* of their own. If the English Channel qualified as an appendage of the Stuart monarchy—John Selden’s famous argument in *Mare Clausum* (1635), then it was hard to see why the Spanish and Portuguese could not claim, in principle, the exclusive possession of the sea routes to the East and West Indies. Armitage continues to explore the ideological origins of the British Empire in a recent article, which reconstructs the colonial context of John Locke’s *Second Treatise of Government*. In chapter five, Locke espoused an essentially Grotian theory of the creation of private property and pointedly concluded that, since the natives of North America roamed their native lands as hunter-gatherers, they were no true owners at all. Armitage shows that Locke wrote chapter

five in the summer of 1682, at the same time that he lent crucial support to a colonial project of his patron, the Earl of Shaftesbury, by revising the *Fundamental Constitutions of Carolina*. This was no coincidence. There are sufficient similarities between the *Fundamental Constitutions of Carolina* and chapter five of the *Second Treatise of Government* to confirm the Cambridge School's nagging suspicion that the roots of modern liberalism must be sought in a natural law tradition that justified Western imperialism and colonialism in the early modern period.¹⁹

Yet the Cambridge School approach has important limitations as well. For a large part of its existence, the Cambridge School has concentrated on reconstructing “the history of the state in its domestic or municipal capacities,” and paid precious little attention to the “external relations of states.” The founders of the Cambridge School—John Pocock and Quentin Skinner—have considered it their task to analyze the various different ways in which early modern Europeans and Americans conceptualized power relationships within their own communities. This research program may well have outlived itself. A case in point is *Republicanism: A Shared European Heritage* (2002), a collection of essays edited by Skinner and Martin van Gelderen. With the exception of David Armitage, its contributors signally fail to address the question whether (and to what extent) the colonial projects undertaken by the inhabitants of early modern Europe informed their understanding of what it meant to be a citizen and helped them formulate republican constitutional theories. Although the research program of the Cambridge School has facilitated an “ongoing dialogue between historians and political theorists,” there are few followers in other academic disciplines. Skinner’s and Pocock’s preoccupation with resistance theories and classical notions of citizenship was not exactly calculated to attract the interest of IR specialists and historians of international law. That said, the

¹⁹ Tully, *A Discourse on Property* pp. 68–72, 80–85, 90, 114, 168 and *An Approach to Political Philosophy* pp. 137–176; Tuck, *Natural Rights Theories* pp. 58–81, *Philosophy and Government, 1572–1651* pp. 154–201, *The Rights of War and Peace* pp. 78–108; David Armitage, *The Ideological Origins of the British Empire* (Cambridge: Cambridge UP, 2000) pp. 100–124 and ‘John Locke, Carolina and the *Two Treatises of Government*’ pp. 614–610; Hugo Grotius, *The Free Sea* trans. Richard Hakluyt and ed. David Armitage (Indianapolis, IN: Liberty Fund, 2004) pp. 86, 116; Pagden, ‘Human Rights, Natural Rights, and Europe’s Imperial Legacy’ *passim*.

situation is changing rapidly. Some IR specialists have recently taken an active interest in the work of the Cambridge School and vice versa, witness the publications of Edward Keene and David Armitage. It is too early to tell whether these initial contacts will result in a sustained intellectual exchange and incite vigorous interdisciplinary discussions about research programs and methodologies. Yet there can be no doubt that the Cambridge School exerts a strong pull on a new generation of IR specialists, particularly at Oxford University, where the writings of its most prominent members have been assigned for graduate courses in the history of international relations.²⁰

If the Cambridge School is gradually broadening its scope in terms of subject matter, its methodology does not always seem compatible with its self-proclaimed mission to write the *history* of political thought. The Cambridge School is a product of the so-called ‘linguistic turn’ in intellectual history and claims to study political languages and discourses, instead of timeless unit-ideas in the vein of Arthur Lovejoy (1873–1962). According to the Cambridge School, there are no such things as timeless unit-ideas (‘nature’, ‘God’, ‘romanticism’, etc.) that allegedly underlie the thought and writing of each epoch of Western history. Quentin Skinner has explained his methodology in a variety of articles, most prominently in his 1969 manifesto ‘Meaning and

²⁰ David Armitage, ‘The Fifty Years’ Rift: Intellectual History and International Relations’, *Modern Intellectual History* 1 (2004) pp. 97–109, particularly pp. 97–98; *Republicanism: A Shared European Heritage* ed. Quentin Skinner and Martin van Gelderen (Cambridge: Cambridge UP, 2002); Keene, *Beyond the Anarchical Society* passim; Duncan S.A. Bell, ‘International Relations: The Dawn of a Historiographical Turn?’, *British Journal of Politics and International Relations* 1 (2001) pp. 115–126; Barry Buzan and Richard Little, ‘Why International Relations has failed as an Intellectual Project and what to do about it’, *Millennium: Journal of International Studies* 30 (2001) pp. 19–24; see also the previous footnote.

David Armitage was instrumental in bringing historians of political thought, IR specialists and legal historians together in a seminar on ‘The Foundations of Modern International Thought, 1494–1713’, held at the Folger Shakespeare Library in Washington DC in May–June 2002. Peter Borschberg gave an important paper on *Mare Liberum* at this seminar, which has recently been published as ‘Hugo Grotius’ Theory of Trans-Oceanic Trade Regulation: Revisiting *Mare Liberum* (1609)’, *Itinerario* 29, no. 3 (2005) pp. 31–53. David Armitage is currently preparing a history of the foundations of modern international thought.

To measure the Cambridge School’s impact on the IR field, it is instructive to read the syllabus for ‘Classical Theories of International Relations’, a graduate course offered at Oxford University in the academic year 2004–2005 by Dr. Andrew Hurrell of Nuffield College and Dr. Jennifer Welsh of Somerville College. The reading list includes the writings of David Armitage, Peter Borschberg, Knud Haakonssen, Anthony Pagden, Quentin Skinner, Richard Tuck, and James Tully, i.e. historians of political thought who either belong to the Cambridge School or whose work is closely related to it.

Understanding in the History of Ideas'. He has consistently applied the language philosophy of J.L. Austin (1911–1960) to the analysis of political texts, and he sharply distinguishes between a) an intention to do something and b) an intention *in* doing something, which, following Austin, he identifies as a 'speech-act'. In his view, past 'speech-acts' are, in fact, the proper object of inquiry for historians of political thought. He also agrees with the philosopher and historian Robin Collingwood (1889–1943) that "there simply are no perennial problems in philosophy: there are only individual answers to individual questions, and as many different questions as there are questioners." Skinner has sought to put his own methodology into practice in a wide variety of historical studies, such as *Reason and Rhetoric in the Philosophy of Hobbes* of 1996. As he noted in an interview two years later,

The question that underpins the book is not so much what [Thomas] Hobbes means in his various texts, but what he is up to, what he may have meant by writing as he did. Answering my own question, I argue that he was questioning, criticizing, seeking to discredit, seeking to supersede a particular understanding of the relations between eloquence and argument, an understanding that had been central to Renaissance ideas about civil science.²¹

Skinner's methodology has clearly revolutionized the study of intellectual history. Yet to what extent does the Cambridge School practice what he preaches?

No amount of contextualization can change the fact, for example, that the Cambridge School remains preoccupied with the canon of Western philosophy. True, it treats the 'Great Books' in a dramatically

²¹ J.G.A. Pocock, 'The History of Political Thought: A Methodological Enquiry' in *Philosophy, Politics and Society, Second Series* ed. Peter Laslett and W.G. Runciman (Oxford: Basil Blackwell, 1962); Pocock, 'Languages and Their Implications: The Transformation of the Study of Political Thought' in: J.G.A. Pocock, *Politics, Language and Time: Essays on Political Thought and History* (New York: Atheneum, 1971) pp. 3–41; *Meaning and Context: Quentin Skinner and his Critics* James Tully ed. (Cambridge: Polity Press, 1988), *passim* (quotation on p. 65); Quentin Skinner, 'Language and Political Change' in: *Political Innovation and Conceptual Change* ed. Terence Ball, James Farr, Russell L. Hanson (Cambridge: Cambridge UP, 1989) pp. 6–23.

Quentin Skinner provided an insightful contextualization of his methodological writings and his own development as a historian in a series of interviews with Maria Lúcia. L.G. Pallares-Burke in March and April 1998. Pallares-Burke published her account of these interviews in *The New History: Confessions and Conversations* (Cambridge: Polity Press, 2002) pp. 212–239. The block quotation is taken from p. 224.

different fashion than most Western philosophers or political scientists do, and it is happy to add new thinkers to the canon. For example, John Pocock has convincingly shown in *The Machiavellian Moment* that James Harrington was by far the most important republican theorist in England in the middle of the seventeenth century. Needless to say, Harrington had not exactly been a household name in philosophy and political science departments until the publication of Pocock's magnum opus in 1975. Although the Cambridge School continues to maintain a refreshingly critical stance towards the canon of Western philosophy, it refuses to abandon the notion of a canon as such. Skinner himself admitted at a recent conference in Washington DC that the Cambridge School has applied its intertextual approach primarily to the seminal political theorists of seventeenth century England like Hobbes and Locke. Its reconstruction of a variety of intellectual debates in which Hobbes and Locke participated is clearly meant to deepen our understanding of their work rather than that of the 'second-rate' pamphleteers and polemicists who started these debates and who, more often than not, had the misfortune of ending up on the wrong side of history. The most famous example is, of course, Locke's defense of the right of resistance and his denunciation of Robert Filmer in the *First Treatise of Government*, written in the early 1680s. Filmer's *Patriarcha*, an 'old-fashioned' religious justification of monarchical government stemming from the 1630s, is hardly studied for its own sake, but only to the extent that it elucidates Locke's political theories. Both Tuck and Tully adopt a similar approach in their study of Grotius. They have made a point of arguing, for example, that key aspects of his rights and contract theories were adopted by Hobbes and Locke. The Cambridge School's predilection for writing the history of an intellectual canon, however defined, poses a quandary. It seems to contradict Skinner's own methodological writings, particularly his iconoclastic 1969 article 'Meaning and Understanding in the History of Ideas', and cannot be easily reconciled with the Cambridge School's avowed interest in the *historicity* of political thought.²²

²² J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton UP, 1975).

Quentin Skinner commented on the Cambridge School's treatment of the canon of Western philosophy at a conference on 'British Political Thought in History, Literature and Theory', held at the Folger Shakespeare Library in Washington DC, 31 March–2 April, 2005.

Yet the most serious methodological shortcoming of the Cambridge School is the mistaken assumption that the historical context of any given political treatise must be yet another text. In most cases, the benchmark texts that the Cambridge School uses to contextualize the ‘Great Books’ are themselves more or less abstract reflections on the origins of political power or the constitutional arrangements of a particular town or country. The Cambridge School has made few attempts as yet to integrate the literature and art of past eras in the history of political thought, even though Skinner readily admits that art objects can be read as texts and that political sensibilities are present in many forms of literature. The intertextual approach of the Cambridge School is problematic for another reason as well. It does not pay sufficient attention to the historical events that inspired or provoked the writings of early modern political theorists and that these theorists themselves hoped to influence. In most cases, they reacted to very specific historical developments—whether political, socioeconomic or religious in nature—that affected their communities in their own lives and times. More importantly, they took up the pen in the expectation of *changing* the course of events. (Whether they succeeded in this aim is, of course, an altogether different question.) It remains to be seen whether, and to what extent, the Cambridge School methodology is conducive to analyzing the interrelationship of politics and political theory. Skinner and Pocock have spent the greater part of their intellectual careers recovering political languages and discourses, rather than teasing out the practical implications. The limitations of the Cambridge School methodology are particularly clear in its approach to Grotius, who, unlike Hobbes and Locke, was an active and prominent politician in his own right. The Cambridge School has failed to offer a convincing account of the relationship between Grotius’ day-to-day political activities and his reflections thereon in various published and unpublished writings. My study of Grotius’ involvement with the Dutch East India Company seeks to redress this imbalance in the current scholarship and extend

In a recent article, Peter Burke traces the historical roots of the modern-day urge for contextualization, which is fast becoming a sacrosanct methodology in the humanities and social sciences. He points out that some of its practitioners erroneously claim to reconstruct *the context* of a given object, and raises valid questions about the lack of interdisciplinary methodological discussions. What does it mean to contextualize in history as compared to English literature or archeology, for example? See Peter Burke, ‘Context in Context’, *Common Knowledge* 8 (2002) pp. 152–177.

the Cambridge School methodology in new directions. It reconstructs in great detail a whole range of problems faced by the VOC in the first decade of its existence, as well as the strenuous efforts made by Grotius to resolve these.²³

V *The Dutch East India Company and the People without History*

With one or two exceptions, the VOC's ideological and political dimensions have been neglected for a long time by both Dutch historians and specialists on the history of Southeast Asia. This was partly the result of decolonization after the Second World War. The newly independent nations of Southeast Asia had no need for old-fashioned Eurocentric colonial history: instead, their governments encouraged the writing of 'autonomous' Asian history, which paid little or no reference to the brief interlude of European overlordship in the nineteenth and twentieth centuries. It was not just a matter of political expediency to propagate the notion that the internal life of Asian societies had remained largely unaffected by European imperialism and colonialism. Thanks to J.C. van Leur, a radical shift in perspective occurred simultaneously among Dutch specialists on the history of Asia. When F.W. Stapel published a massive, co-authored *History of the Dutch East Indies (Geschiedenis van Nederlandsch Indië)* in 1939, Van Leur wrote a review that was sharply critical of its under-

²³ I stated similar concerns about the Cambridge school methodology in the introduction to my Harvard doctoral dissertation. In his reaction to its first draft, David Armitage insisted, quite correctly, that several Cambridge School publications had analyzed the interaction between politics and political theory. He called my attention to articles by Quentin Skinner, Mark Goldie and himself. Compare, for example, Quentin Skinner, 'The Principles and Practice of Opposition: The Case of Bolingbroke versus Walpole' in: Neil McKendrick ed. *Historical Perspectives: Studies in English Thought and Society in Honour of J.H. Plumb* (London, 1974) pp. 93–128; Mark Goldie, 'John Locke's Circle and James II', *The Historical Journal* 35 (1992) pp. 557–586; David Armitage, 'The Scottish Vision of Empire: Intellectual Origins of the Darien Venture' in: *A Union for Empire: Political Thought and the Union of 1707* ed. John Robertson (Cambridge: Cambridge UP, 1995) pp. 97–118. More recent examples are Armitage's introduction to the Liberty Fund edition of *Mare Liberum* and his important article on Locke in *Political Theory*, both published in 2004.

Although I appreciate Armitage's own efforts in this regard, I still believe that the Cambridge School *methodology* offers few precepts for studying the interrelationship of politics and political theory. To be sure, Quentin Skinner is absolutely right when he argues that "an agent's professed principles invariably need to be treated as causal conditions of his actions, even if the agent professes those principles in a

lying assumptions. He argued that the history of the Indonesian Archipelago could not be reduced to a period before and a period after the European arrival on the scene. In his view, the basic rhythms of Indonesian economic life reflected internal rather than external pressures, and the deep structures of Javanese culture and psychology resisted foreign influences well into the nineteenth century. Two equal civilizations, the East and the West, could flourish side by side as long as “the magic poison of modern capitalism had not yet enchanted Europe and northeastern America to produce steam, mechanics and grooved cannon.”²⁴

Van Leur’s insights have been enormously influential in the history profession in The Netherlands. M.A.P. Meilink-Roelofs, the doyenne of the VOC archives in The Hague, was one of several Dutch historians who underwent a proverbial conversion on the road to Damascus. In 1943, Meilink-Roelofs could still depict the VOC’s capture of Portuguese fortresses on the Malabar Coast of India as a glorious chapter in Dutch history. Less than twenty years later, she emphatically rejected this Eurocentric approach in her *Asian Trade and European Influence*, a brilliant reconstruction of indigenous trade patterns in the Malay Archipelago prior to the arrival of the Portuguese as well as a trenchant critique of VOC policies that sought to destroy

wholly disingenuous way.” I also agree with Skinner’s observation that public political statements “limit and direct the agent’s behavior in such a way as to make his actions *compatible* with the claim that they were motivated by an accepted principle and that they can thus be justified.” (The relationship between an agent’s professed principles and his actions is discussed at length in *Meaning and Context* ed. Tully pp. 107–118.) This is still a rather limited understanding of the interaction of politics and political theory. It does not explain, for example, why an agent should succeed, or fail to succeed, in convincing (other) members of the ruling elite of the intrinsic value, or at least the expediency, of his policy recommendations. Nor can it account for the various ways in which events may and do change political ideology. There is a point at which it becomes impossible or inadvisable for an agent to stick to his professed beliefs. The situation on the ground may change in such a dramatic fashion as to deprive his professed beliefs of much of their value as modes of explanation and justification. In other words, the Cambridge School methodology has little to say about the way in which political change affects the transformation or complete disappearance of certain ideologies as opposed to others. I hope the current study will shed some light on these important issues.

²⁴ J.C. van Leur, *Indonesian Trade and Society: Essays in Asian Social and Economic History* (The Hague: W. van Hoeve Publishers, 1967) pp. 249–289, particularly pp. 284–285; Victor Lieberman, *Strange Parallels: Southeast Asia in Global Context, c. 800–1830* 2 vols. (Cambridge UP, 2003) Vol. I: *Integration on the Mainland* pp. 9–15; *On the Eighteenth Century as a Category of Asian history: Van Leur in Retrospect* ed. Leonard Blussé and Femme S. Gaastra (Aldershot, UK: Ashgate, 1998).

native trade. The intellectual about-turn of Meilink-Roelofs was no isolated case. Several prominent scholars at the University of Leiden have continued her work and trained both Dutch and Asian graduate students to read VOC documents ‘against the grain’. Prof. Leonard Blussé has written extensively on Chinese trading networks and mestizo communities in Southeast Asia, for example. In addition, he directs a UNESCO-sponsored project to study and preserve the Company’s archives around the globe. The TANAP program has already resulted in a wide array of research projects on Asian socioeconomic history, ranging from Japanese copper exports in the seventeenth century to the interaction between Europeans and the inhabitants of eighteenth century Cochin on the Indian subcontinent.²⁵

At the same time, the VOC as such continues to be an object of study for maritime and socioeconomic historians in The Netherlands. The overtly colonialist approach was quietly abandoned after the Second World War, and not just for political reasons: from a methodological standpoint, it was possible to raise some sound objections against the approach of F.W. Stapel and H.T. Colenbrander, the doyens of VOC studies before the Second World War. They had been in the habit of reading history backwards and discovering the origins of the Dutch East Indies in everything the Company did or failed to do. When their Whig interpretation of history went out of fashion, it also marked a decisive turn away from the political history of the VOC. In the 1960s and 1970s, the overriding interest of the historical profession was socioeconomic history in the vein of the French Annales School, which sought to study long-term economic trends—the most famous example is, of course, Ferdinand Braudel’s *La Méditerranée*—and reconstruct the mental world (*mentalité*) of the underdogs in past societies, such as the illiterate peasants in the Pyrenees in the thirteenth century, which Le Roy Ladurie described in *Montaillou*. These new avenues of research did not leave the study

²⁵ M.A.P. Meilink-Roelofs, *Asian Trade and European Influence in the Indonesian Archipelago, 1500–1630* (The Hague, 1962) pp. 1–89, 173–294; Jurrien van Goor, *Prelude to Colonialism: The Dutch in Asia* (Hilversum: Verloren, 2004) pp. 18–19; H.L. Wesseling, *Indië verloren, rampspoed geboren en andere opstellen over de geschiedenis van de Europese expansie* (Amsterdam: Bert Bakker, 1988) pp. 25–26, 33–34; Leonard Blussé, *Strange Company: Chinese Settlers, Mestizo Women, and the Dutch in VOC Batavia* (Dordrecht, 1986); L. Blussé, *Bitter Bonds: A Colonial Divorce Drama of the 17th Century* trans. Diana Webb (Princeton: M. Wiener Publishers, 2002); *Shifting Communities and Identity Formation in Early Modern Asia*, ed. Leonard Blussé and Felipe Fernández-Armesto (Leiden: Research School of Asian, African and Amerindian Studies (CNWS), 2003).

of the VOC unaffected. Dutch maritime historians became interested in the lives of ordinary sailors and soldiers on board the East Indiamen, for example. Individual VOC trading posts all across monsoon Asia were subjected to detailed economic analysis, which has resulted in a small cottage industry of Ph.D. theses and source editions. *Daghregisters* (i.e. records of day-to-day proceedings) have been published for many VOC factories. Although this material seems sometimes rather disjointed, it is informed by larger historiographical questions about, for example, the alleged modernity of the Dutch and English East India Companies. The Danish historian Niels Steensgard argued in *The Asian Trade Revolution of the Seventeenth Century* (1974) that it was highly uneconomical to import spices from Asia via the caravan routes of the Middle East because of the high protection costs involved. Merchants who undertook the dangerous overland journey from Hormuz on the Persian Gulf to Aleppo on the Mediterranean were powerless in the face of greedy local rulers-cum-bandits, who taxed the caravan trade with impunity. In Steensgard's view, the VOC and EIC were much faster and cheaper in delivering spices to European consumers precisely because they did not outsource protection costs. Both companies employed their own heavily armed merchantmen in the intra-Asian trade and on the voyages between Asia and Europe, which kept protection costs down to an absolute minimum. The implication of Steensgard's argument was, of course, that this superior business model was bound to supersede both the Asian peddler trade and the Portuguese import trade via the Cape-route. Dutch historians like Femme Gaastra and Els Jacobs have engaged in this historiographical debate by means of detailed analyses of the financial and economic policies of the VOC directors and the Company's commercial operations in Asia, particularly

The TANAP program (Towards a New Age of Partnership) was approved at UNESCO's 29th General Conference in 1997. It is part of UNESCO's 'Memory of the World Program', which seeks to "preserve the endangered memory of humanity recorded, (...) while ensuring the widest possible access (...) for researchers and the general public." The participating institutions include the National Archives of Sri Lanka (Colombo), Tamil Nadu Archives (Chennai, India), Cape Town Archives Repository (South Africa), the Arsip Nasional (Jakarta, Indonesia), Dutch National Archives (The Hague, The Netherlands) and the Research School for Asian, African and Amerindian Studies (CNWS) of the University of Leiden. More information may be found on the TANAP web site (www.tanap.net), which includes abstracts in English of the research projects undertaken by Ph.D. students at the University of Leiden and elsewhere as part of the TANAP program.

its cooperation with local merchants, without whom it literally could do no business whatsoever.²⁶

However valuable these new strands of research may be, the concomitant disregard for ‘old-fashioned’ political history has resulted in quite a few methodological and historiographical quandaries. Once the VOC is conceptualized as primarily a commercial organization, then it becomes difficult to compare the Dutch colonial experience before and after 1800. As Jurrien van Goor notes in *Prelude to Colonialism* (2004), this problem did not exist for colonialist historians prior to the Second World War. Political analysis was their method of choice for studying the continuities between the VOC and its successor-states in Asia, like the British Raj and the Dutch East Indies. Scholars who have heeded Van Leur’s call to write ‘autonomous’ Asian history also find themselves on the horns of a dilemma. Van Leur assumed that European trading companies had just been minor players in the age-old trading systems of the Indian

²⁶ Van Goor, *Prelude to Colonialism* pp. 10–21; Niels Steensgaard, *The Asian trade revolution of the seventeenth century: the East India companies and the decline of the caravan trade* (Chicago: University of Chicago Press, 1974); Femme Simon Gaastra, *Bewind en beleid bij de VOC: de financiële en commerciële politiek van de bewindhebbers, 1672–1702* (Zutphen, Walburg Pers, 1989); Els M. Jacobs, *Koopman in Azië: de handel van de Verenigde Oost-Indische Compagnie tijdens de 18de eeuw* (Zutphen, Walburg Press, 2000).

Dutch historians have published many valuable works on the social history of the VOC. There are surprisingly few titles in English, however. Compare *All of One Company: The VOC in Biographical Perspective: Essays in Honour of Prof. M.A.P. Meilink-Roelofs*, *Under the Auspices of the Centre for the History of European Expansion, Rijksuniversiteit Leiden* ed. L. Blussé (Utrecht: HES Publishers, 1986); Blussé, *Strange Company, Bitter Bonds, and Shifting Communities and Identity Formation in Early Modern Asia*.

There are quite a few studies in English of individual VOC factories. Compare, for example, S. Arasaratnam, *Dutch Power in Ceylon, 1658–1687* (Amsterdam, 1958); Jan van Lohuizen, *The Dutch East India Company and Mysore, 1762–1790* (The Hague: M. Nijhoff, 1961); T. Volker, *Porcelain and the Dutch East India Company, as recorded in the Dagh-registers of Batavia Castle, those of Hirado and Deshima, and other contemporary papers, 1602–1682* (Leiden, E.J. Brill, 1971); *The Dutch factories in India, 1617–1623: a collection of Dutch East India Company documents pertaining to India* ed. Om Prakash (New Delhi: Munshiram Manoharlal, 1984); John E. Wills, *Pepper, guns, and parleys; the Dutch East India Company and China, 1622–1681* (Cambridge, Mass., Harvard UP, 1974); Om Prakash, *The Dutch East India Company and the economy of Bengal, 1630–1720* (Princeton, N.J.: Princeton UP, 1985); Arasaratnam, *Merchants, Companies and Commerce on the Coromandel Coast, 1650–1740* (New Delhi and Oxford, 1986); George D. Winius, *The Merchant-Warrior Pacified: the VOC and Its changing Political Economy in India* (New Delhi and New York City: OUP, 1991); Willem M. Floor, *The Dutch East India Company (VOC) and Dievel-Sind (Pakistan), in the 17th and 18th centuries: based on original Dutch records* (Islamabad: Institute of Central & West Asian Studies at the University of Karachi; 1993–94); S. Krishna Iyer, *Travancore Dutch relations, 1729–1741* (Trivandrum: CBH Publications, 1995).

Ocean and China Sea, and that the European colonial governments of the nineteenth and twentieth centuries had only scratched the surface of traditional Asian society, without any lasting effect. There are two inherent dangers in Van Leur's argument: it reduces Asian history to a kind of eternal presence and conceptualizes Europe and Asia as two poles apart, thus denying the possibility of any meaningful interaction between them. As Victor Lieberman points out, the proponents of 'autonomous' Asian history have adopted the same epistemological categories as colonialist historians once did—the dynamic, capitalist West versus the traditional, unchanging East, even though their value judgments differ profoundly.²⁷

This orientalist approach has been called into question by recent attempts to write global history. A case in point is *The Birth of the Modern World* (2004) by C.A. Bayly, which analyzes the exchange of people, goods and ideas between the world's continents on a variety

The Steensgard-thesis has provoked a long and fruitful historiographical debate on the business models of European trading companies and the companies' interaction with both Portuguese and indigenous traders in Asia in the early modern period. Compare, for example *The Age of Partnership: Europeans in Asia before Dominion* ed. B.B. Kling and M.N. Pearson (Honolulu, 1979); *Companies and Trade: Essays on Overseas Trading Companies during the Ancien Regime* ed. Leonard Blussé and Femme Gaastra (Leiden: Leiden UP, 1981); Kristof Glamann, *Dutch-Asiatic Trade, 1640–1720* (second edition, The Hague: Martinus Nijhoff, 1981); Douglas A. Irwin, 'Mercantilism as Strategic Trade Policy: The Anglo-Dutch Rivalry for the East India Trade', *Journal of Political Economy* 99 (1991) pp. 1296–1314; *Ships, Sailors and Spices: East India Companies and Their Shipping in the 16th, 17th and 18th Centuries* ed. Jaap R. Bruijn and Femme S. Gaastra (Amsterdam: NEHA, 1993); James C. Boyajian, *Portuguese Trade in Asia under the Habsburgs, 1580–1640* (Baltimore & London: The Johns Hopkins UP, 1993); Femme Gaastra, 'Private Money for Company Trade. The Role of the Bills of Exchange in Financing the Return Cargoes of the VOC', *Itinerario* 18 (1994) pp. 65–76; Om Prakash, *Precious Metals and Commerce: The Dutch East India Company in the Indian Ocean Trade* (Aldershot, Hampshire, Great Britain and Brookfield, Vt., USA: Variorum, 1994); Els M. Jacobs, *In Pursuit of Pepper and Tea: The Story of the Dutch East India Company* (Zutphen: Walburg Press, 1996); L. Blussé, 'Divesting a Myth: Seventeenth Century Dutch-Portuguese Rivalry in the Far East' in: *Vasco da Gama and the Linking of Europe and Asia* ed. Anthony Disney and Emily Booth (New Delhi: OUP, 2000) pp. 387–402; Ernst van Veen, *Decay or Defeat? An Inquiry into the Portuguese Decline in Asia, 1580–1645* (Leiden: CNWS Publications, 2000); R.J. Barendse, *The Arabian Seas: The Indian Ocean World of the Seventeenth Century* (Armonk, NY: 2001); Femme Gaastra, *The Dutch East India Company: Expansion and Decline* (Zutphen: Walburg Press, 2003).

²⁷ Van Goor, *Prelude to Colonialism* pp. 19–21; Lieberman, *Strange Parallels* pp. 11–15; Anthony Milner has also analyzed and exposed the uncritical acceptance of colonialist concepts by scholars who claim to study the autonomous history of Southeast Asia. See, for example, Anthony Milner, 'Who Created Malaysia's Plural Society?', *Journal of the Malaysian Branch of the Royal Asiatic Society* 76 (2003) pp. 1–24.

of levels. Bayly argues that Asian and African societies were no passive recipients of European culture at any time, not even in the nineteenth century, the high noon of (formal) empire. Instead, these societies underwent significant changes of their own that either paralleled developments in Western Europe or adapted them to local circumstances. The consequences were oftentimes unexpected and came to haunt the countries on the Atlantic rim. As Bayly explains, the aftershocks of the French Revolution were felt around the globe for decades afterwards: governments inside and outside of Europe had to respond to the radical new conception of politics and the intensification of warfare which the Napoleonic armies and navies had exported abroad, or risk their own demise. Even if their response was to affirm supposedly traditional values, in the process of doing so they usually ended up initiating unprecedented changes in the societies which they governed, which, due to increased means of communication, did not fail to affect other parts of the world as well, including the supposed engine of change, Western Europe and the US. Bayly has presented a valuable model for studying the interaction between different societies across time and space, which deserves serious consideration by historians everywhere. There is much that remains to be done.²⁸

In the case of the VOC, the comparative neglect of its political history has discouraged inquiries into the political ideologies, including the underlying cultural assumptions and religious mindsets, which informed the decision-making of the Company directors in the Dutch Republic and the Governor-General and Councilors of the Indies in Batavia. What did it mean for the Governor-Generals to send their representatives to various courts in monsoon Asia and receive envoys in return? How did they interpret the commercial agreements and military alliances which they concluded with Asian rulers? Which courses of action were open to them to enforce these treaties? If they decided to resort to violence, how did they justify such extreme measures vis-à-vis a) the ruler whom they accused of breach of contract, not to mention his allies, and b) the VOC directors back in patria? There is another set of questions that needs to be addressed as well. What was the range of political frameworks wherein European

²⁸ C.A. Bayly, *The Birth of the Modern World, 1780–1914: Global Connections and Comparisons* (Oxford: Blackwell Publishing, 2004) pp. 1–242.

trading companies operated in monsoon Asia? How did indigenous rulers and magistrates perceive these trading companies? Which political incentives, religious considerations and cultural assumptions induced them to either accept or reject the companies' advances? To what extent was their position in domestic and international politics enhanced by cultivating the companies' friendship or, alternatively, by a display of sworn enmity towards them? And how did this kind of interaction change the political conceptions of each of the participants in the power game? The secondary literature on monsoon Asia and European expansion in the early modern period counts a few articles and essay chapters which deal with these issues, but not many. The research that has been done so far lacks a common focus and seems rather hesitant and disjointed. Nor has it engendered a serious academic debate about the methodological parameters involved. Should the intertextual approach of the Cambridge School of Political Thought be adopted in part or in whole, for example? What could gender and cultural historians contribute to this kind of research? One thing is clear, however: the new history of international relations in monsoon Asia still needs to be written.²⁹

The present monograph seeks to elucidate one facet of the history of international relations in early modern Europe and Asia: Hugo

²⁹ A.C. Milner, *Kerajaan: Malay Political Culture on the Eve of Colonial Rule* (Tucson, Arizona: University of Arizona Press, 1982); John E. Wills, Jr., *Embassies and Illusions: Dutch and Portuguese Envoys to Kang-hsi, 1666–1687* (Cambridge, MA: Harvard UP, 1984); Jurrien van Goor, 'Sea Power, Trade and State-Formation: Pontiak and the Dutch' in: *Trading Companies in Asia, 1600–1830* ed. Jurrien van Goor (Utrecht: HES Publishers, 1986); Mark Vink, 'Mare Liberum and Dominium Maris: Legal Arguments and Implications of the Luso-Dutch Struggle for Control over Asian Waters, 1600–1663' in: *Studies in Maritime History* ed. K.S. Matthew (Pondicherry: Mission Press, 1990) pp. 38–68; Jurrien van Goor, 'Merchant in Royal Service: Constant Phaulkon as Phraklang in Ayuthaya, 1683–1688' in: *Emporia, Commodities and Entrepreneurs in Asian Maritime Trade, c. 1400–1750* ed. Roderich Ptak and Dietmar Rothermund (Stuttgart: Franz Steiner Press, 1991) pp. 445–465; *Southeast Asia in the Early Modern Era: Trade, Power, and Belief* ed. Anthony Reid (Ithaca and London: Cornell UP, 1993); Kumkum Chatterjee, 'History as Self-Representation: The Recasting of a Political Tradition in Late Eighteenth-Century Eastern India', *Modern Asian Studies* 32 (1998) 913–948; Mark Vink, 'Encounters on the Opposite Coast: Cross-Cultural Contacts between the Dutch East India Company and the Nayaka State of Madurai in the Seventeenth Century' (unpublished Ph.D. thesis, University of Minnesota, 1998); L. Blussé, *Tussen Geveinsde Vrunden en Verklaarde Vijanden* (Amsterdam: Koninklijke Nederlandse Akademie van Wetenschappen, 1999); F.S. Gaastra, 'Competition or Collaboration: Relations between the Dutch East India Company and Indian Merchants around 1680' in: *Merchants, Companies, and Trade: Europe and Asia in the*

Grotius' involvement with VOC policy-making as a case study of the interaction between politics and political theory. Although the VOC directors were hard-headed capitalists and opportunistic to the core, they also knew that they did not operate in a political or ideological vacuum. The VOC itself was a product of the aggressive military and naval strategies of the Dutch Republic at the start of the seventeenth century. Johan van Oldenbarnevelt, the political leader of the United Provinces, had forced the regional trading companies of Holland and Zeeland to merge in the winter of 1601/02, thus creating the United Dutch East India Company. He had done so for a mixture of political, military and financial reasons. The VOC enjoyed sweeping sovereign powers by virtue of its charter, which was granted by the Dutch Estates General in March 1602. It could establish and garrison fortresses in the East Indies, for example, and conclude military alliances with local rulers. There was a quid pro quo, of course: the Dutch Estates General subtly reminded the VOC directors in November 1603 that it had not outsourced the authority and means to wage war overseas for nothing. The directors were expected to launch a lightning military and naval campaign against the archenemy, the King of Spain and Portugal, primarily by disrupting Iberian trade and shipping in the East Indies. Such a strategy would benefit the Dutch war effort in Europe in two ways. Firstly, the financially-strapped Admiralty Board would share in the prize goods captured by VOC ships, and secondly, the mightiest monarch in Christendom would receive fewer revenues from his colonial empires, forcing him to increase his defense spending in Asia and thus leaving him with precious little money to continue the war in Europe. The VOC directors got the message. When Steven van der Haghen sailed in December 1603, he was told to besiege the Portuguese headquarters at Goa and make himself a nuisance in every possible way, which he did. He obtained the surrender of the Portuguese castle at Ambon, for example, and turned it into a VOC stronghold instead, the first one in the Spice Islands.

Early Modern Era ed. Sushil Chaudhury and Michel Morineau (London and New York: Cambridge UP, 1999) pp. 189–201; Gaastra, 'War, competition and collaboration: Relations between the English and Dutch East India Company in the Seventeenth and Eighteenth Century' in: *The Worlds of the East India Company* ed. H.V. Bowen, M. Lincoln and N. Rigby (Woodbridge (UK): Boydell Press, 2002) pp. 49–68; Van Goor, *Prelude to Colonialism*.

Meanwhile, Jacob van Heemskerck had anticipated these aggressive military and naval policies by waylaying a richly-laden Portuguese merchantman in Singapore Straits in February 1603. Strictly speaking, Van Heemskerck was still employed by one of the regional trading companies, the United Amsterdam Company, to be precise. The lion-share of the booty went to investors in that company. Yet the VOC directors realized that the carrack's capture made for good copy and that it could be used to promote the Company's privateering campaign in the East Indies. This was where Grotius came in, of course.³⁰

VI *Grotius' Political and Intellectual Collaboration with the VOC Directors: A Preview of the Argument*

It was a felicitous decision on the part of the VOC directors to ask Grotius to write a defense of Van Heemskerck's seizure of the *Santa Catarina*. They probably contacted him right before the Amsterdam Admiralty Court handed down its verdict on 9 September 1604. It was the start of one of the most successful political and intellectual partnerships in history, which lasted for over a decade and marked a new departure in natural law and natural rights theories. Although *De Jure Praedae* remained unpublished during his lifetime, Grotius' contemporaries were hardly unaware of his radical ideas. He voiced them at every possible occasion, when he petitioned the Dutch Estates General on the directors' behalf, for example, or served as their chief

³⁰ I.J. van Loo, 'Kaaopvaart, handel en staatsbelang. Het gebruik van kaaopvaart als maritiem machtsmiddel en vorm van ondernemerschap tijdens de Nederlandse Opstand, 1568–1648' in: *Ondememers en Bestuurders: Economie en Politiek in de Noordelijke Nederlanden in de Late Middeleeuwen en Vroegmoderne Tijd* ed. Clé Lesger and Leo Noordegraaf (Amsterdam: NEHA, 1999) pp. 349–368.

Oldenbarnevelt and the Dutch Estates General turned out to be right in their expectation that VOC privateering would dramatically increase Iberian defense spending in Asia. The treasury of New Spain defrayed the costs of the Spanish military and naval presence in the Philippines. The silver remittances from New Spain to the Philippines showed a sharp rise in the first decade of the seventeenth century, partly due to Dutch privateering voyages in the Pacific, and partly due to Dutch attacks on Spanish positions in the Philippines and Moluccas. Compare Engel Sluiter, *The Gold and Silver of Spanish America, c. 1572–1648: Tables Showing Bullion Declared for Taxation in Colonial Royal Treasuries, Remittances to Spain, and Expenditures for Defense of Empire* (Berkeley: The Bancroft Library, 1998) pp. 137–145 and Table E–1.

spokesman in negotiations with the English East India Company in 1613 and 1615.

Should Grotius' long and fruitful collaboration with the VOC directors be seen as a partnership of equals? Not in the sense that Grotius could tell the directors what to do—he never achieved the political stature of Reynier Pauw, burgomaster of Amsterdam, for example—or that they could teach him how to think. Although they had some notion of freedom of trade and navigation, the right to self-defense and the right to exact damages for injuries sustained, Grotius' thinking on these issues was far more thorough and systematic. In *De Jure Praedae*, he first uncovered the underlying philosophical principles and then drew some revolutionary conclusions. So much is clear from the English response to Grotius' exposition of his subjective rights theories at the Anglo-Dutch colonial conferences of 1613 and 1615. The English negotiators strongly objected to his suggestion that a private trading company like the VOC could be judge and executioner in its own cause. This was, quite literally, unheard of. Still, Grotius' relationship with the VOC directors cannot be reduced to the familiar and misleading topos of the great mind hovering over lesser mortals. His natural law and natural rights theories were clearly distilled from the abundance of factual information about the VOC's trials and tribulations that reached him by way of its directors. Even though he conceptualized this material at a higher level of abstraction than anybody else, his theoretical concerns were always subject to the VOC's political needs and commercial interests. Indeed, it was the adroit combination of theory and practice that made Grotius' defense of VOC policy so utterly convincing, both for the Dutch Estates General and, eventually, for the English negotiators. The VOC directors, for that matter, were quick studies themselves. When the Company's federal board held its half-yearly meeting in September 1609, the Gentlemen XVII inserted in their minutes a long and detailed justification of the privateering campaign of the previous six years, full of Grotian rhetoric about freedom of trade and navigation. This constant interplay of political thought and action, which characterizes Grotius' cooperation with the VOC directors, is explored in each of the following chapters.

Chapter one reconstructs Van Heemskerck's voyage to the East Indies and his seizure of the *Santa Catarina* on the basis of newly discovered source materials, including his letter to the VOC directors of 27 August 1603 and a Dutch copy of the verdict of the

Amsterdam Admiralty Court. It has long been known that Grotius wrote *De Jure Praedae* in defense of the carrack's capture and at the explicit request of the VOC directors. Historians have failed to recognize, however, that Grotius' conceptualization of natural rights and natural law in *De Jure Praedae* is based to a large extent on Van Heemskerck's own justification of privateering. Indeed, a key notion of Grotius' rights theories—the individual's right to punish transgressors of the natural law in the absence of an independent judge—both reflects and explains Van Heemskerck's decision to assault the *Santa Catarina* in revenge for the Portuguese mistreatment of Dutch merchants in the East Indies. The verdict of the Amsterdam Admiralty Court was equally important to Grotius' argument in *De Jure Praedae*. The judges endorsed Van Heemskerck's claim that it was entirely legitimate to use force in self-defense and, more importantly, in order to exact damages for injuries sustained, such as the execution of seventeen Dutch sailors by the Portuguese authorities in Macao in November 1601, of which Van Heemskerck had already made much in his letter to the VOC directors of August 1603. Although rich in historical detail, the verdict's legal framework was lamentably superficial and haphazard. The Admiralty judges indiscriminately cited the dictates of natural law, the law of nations and the law of war, along with Van Heemskerck's commission, that is the delegated authority that he held from Maurice of Nassau, Lord High Admiral of Holland. Grotius must have shaken his head in disbelief when he read the verdict. He clearly considered it his task in *De Jure Praedae* to distinguish carefully between public and private war and to disentangle the judges' utterly confused notions of natural law and natural rights.

Chapter two analyses Grotius' (ab)use of the so-called Spanish Black Legend, a fixture of Dutch war propaganda during the long fight for independence against the King of Spain and Portugal. Grotius demonized both the Spanish and Portuguese in *De Jure Praedae*, making pointed references to *Brevísima Relación*/The Devastation of the Indies (1552) of Bartolomé de las Casas, for example. Dutch translations of *Brevísima Relación* were sold in large numbers in Amsterdam at the turn of the seventeenth century. The printer Cornelis Claeszoon even published a pictures-only edition in 1609, based on the etchings of Joost de Winghe, a Flemish refugee in Frankfurt-am-Main. These gruesome illustrations were incorporated in nearly all subsequent text editions of *Brevísima Relación* that appeared in the United Provinces. Grotius adapted *Brevísima Relación* for his

own use in chapter eleven of *De Jure Praedae*. He conceived of the proverbial cruelty and tyranny of the *conquistadores* as a truly global phenomenon, which was by no means limited to the Americas. In October 1604, the VOC directors had provided him with a set of sworn statements by Dutch sailors, merchants and commanders, which documented the outrages which the Spanish and Portuguese had allegedly committed in the East Indies in the period 1595–1604. Grotius arranged this material in chapter eleven of *De Jure Praedae* according to the main themes of *Brevísima Relación*: a) the Iberian usurpation of indigenous sovereignty and self-government, b) the undermining of true religion due to the unchristian behavior of the Spanish and Portuguese and c) their inhumane, barbaric treatment of Indians and Dutchmen alike, which revealed an insatiable lust for power and riches. It was of great importance to Grotius' argument to reconstruct the early Dutch voyages to the East Indies in this dramatic fashion in chapter eleven of *De Jure Praedae*. The injuries that the Spanish and Portuguese had inflicted on his compatriots and their indigenous trading partners constituted the hard data that justified Dutch privateering in the East Indies. If the VOC waged a just war against the Iberian transgressors of the natural law, then it made perfect sense for Grotius to present the 'facts' of the case in the mold of the Spanish Black Legend.

Chapter three analyses Grotius' lobbying activities on behalf of the VOC. What purpose might *De Jure Praedae* have served if it had appeared in print in the first decade of the seventeenth century? Why did the VOC directors commission a defense of the *Santa Catarina's* seizure in the first place? According to the Dutch historian Robert Fruin, the VOC directors feared a backlash from Mennonist shareholders in the aftermath of the carrack's capture. The principled pacifism of the Anabaptists was clearly incommensurable with the Company's privateering. A closer examination of the evidence reveals, however, that the problem was not so much Mennonist shareholders in general, as one in particular, Pieter Lijntgens, the VOC's foremost investor. Lijntgens was a rather shady character, who engaged in risky commercial ventures on a regular basis, including the procurement of guns and ammunition for the Zeeland VOC directors. In 1605, he negotiated with the French ambassador in The Hague about the possible establishment of a French East India Company, which, unlike the VOC, would allegedly

limit itself to peaceful trade. (This did not mean, by the way, that its ships would be unarmed!) Lijntgens' scheme held many attractions for disgruntled VOC shareholders: they did not object to military and naval campaigns as such, but resented the fact that all profits from VOC trade and privateering were reinvested in the Company. No dividends were paid out until April 1610. The seizure of the *Santa Catarina*, which the VOC directors trumpeted on every occasion, had failed to benefit the Company's shareholders as well. The lion-share of the booty was divided among the investors in the United Amsterdam Company. In this context, Lijntgen's plans to establish a new East India Company in France posed a real threat to the VOC. Its very survival depended on the political and diplomatic support of the Dutch Estates General, which ordered Lijntgens to abandon the scheme without further ado and made a sustained effort to 'redirect' the colonial ambitions of Henry IV of France, preferably to the Americas. Grotius' services were indispensable to the VOC directors on this as well as other occasions. At their request, he wrote two petitions that were submitted to the Dutch Estates General in the spring of 1606. He argued that the Dutch Admiralty Board should relinquish its twenty percent share of all VOC booty, which could be better used to a) finance the war in Asia and b) pay dividends to VOC shareholders. Grotius reached the same conclusion in his petitions as he did in *De Jure Praedae*: it was just, honorable and beneficial for the VOC to engage in privateering in the East Indies, both as a company of private merchants and as the agent of a fledgling new state. Indeed, the reputation of the United Provinces had never been higher among the Indians of the East because of its brilliant victories over Iberian naval forces and its alliances with important indigenous rulers. The Company deserved to get all the help and protection that the Dutch Estates General could offer it.

Chapter four discusses Grotius' involvement with the peace negotiations of 1607–1608 between the United Provinces on the one hand and Philip III of Spain and Portugal and the Archdukes, the rulers of the Southern Netherlands, on the other hand. I disprove the widespread assumption that Grotius was just a marginal player in these talks. Key evidence is a memorandum in the Dutch National Archives that Grotius wrote for the VOC directors in January 1608. It outlines three possible scenarios in case the Dutch Estates General made peace with Philip III:

- A) free trade and navigation in monsoon Asia, with the exception of places that were in the actual possession of the Dutch, Spanish or Portuguese,
- B) a complete withdrawal by the Company from the East Indies,
- C) a continuation of the war beyond the Line (i.e. the Tropic of Cancer), even though hostilities would cease in Europe

The author of *Mare Liberum* preferred the first option, of course. Yet he considered the third alternative the most likely outcome of the negotiations. History did indeed prove him right. The VOC directors were clever enough to submit his recommendations to the Dutch Estates General, which endorsed them in their entirety. Grotius' memorandum became, in fact, the official Dutch negotiating position. By the end of March 1608, the Archdukes' representatives provisionally accepted Oldenbarnevelt's compromise proposal for peace in Europe and a nine-year truce beyond the Line. The proposal was heavily weighed in favor of the VOC: it provided for freedom of trade and navigation in the East Indies and expressly prohibited the Portuguese from attacking the Company's indigenous allies. No wonder, then, that Philip III rejected the proposal out of hand when it was presented to him by Father Neyen, the confessor of Archduke Albert. The Archdukes' representatives had no choice but to inform Oldenbarnevelt in August 1608 that the King insisted on a Dutch withdrawal from the East Indies and freedom of worship for Dutch Catholics in exchange for a peace treaty. This made a collapse of the peace talks inevitable. Neither side had any intention of resuming full-scale hostilities, however. The negotiations for the Twelve Years' Truce started in earnest in September 1608.

Chapter five reconstructs Grotius' efforts to influence these negotiations in the winter of 1608/09. It focuses in particular on the printing history of chapter twelve of *De Jure Praedae*, which was published as *Mare Liberum* in April 1609, just one or two weeks after the Truce treaty was signed at Antwerp. Grotius picked his fights carefully: he stayed aloof from the pamphleteering war that broke out between proponents and opponents of peace with Spain in the summer of 1608, for example. His involvement was, at best, indirect. Although he probably did not write the four VOC pamphlets that appeared in the summer of 1608, their line of reasoning does assume a familiarity on the part of their author(s) with his memorandum for the VOC directors of January 1608. Nor should his summertime

silence be interpreted as an unspoken abdication of his responsibilities as VOC adviser and lobbyist. In October 1608, he corresponded with Johan Boreel, eldest son of Zeeland VOC director Jacob Boreel, about the possible publication of *Mare Liberum*. At his instigation, Johan Boreel addressed a meeting of the VOC directors in Middelburg in early November and persuaded them to commission a defense of “the right of navigation—which is competent to the Dutch nation over the whole wide world.” Grotius’ correspondence with Daniel Heinsius in November 1608 reveals that he wanted a quick publication in order to bring the Company’s interests to the fore in the Truce negotiations. He largely failed in his aim. The publication date of *Mare Liberum* was pushed back, first to February 1609 and then to April, due to sheer sloppiness on the part of Elzevier Publishers and, more importantly, Oldenbarnevelt’s growing reservations. When the Truce negotiations entered their final phase, the Advocate of Holland positively forbade Grotius to publish anything that might derail them. That said, the Truce treaty did safeguard the VOC’s commercial and political interests along the lines envisioned by Grotius. A secret addendum extended the armistice to the East Indies, which, if enforced, would mean *de facto* freedom of trade and navigation. Iberian attacks on the VOC and its indigenous trading partners were expressly prohibited by the Treaties of Guarantee between the Dutch Republic and the Kings of France and England. True, nobody expected the French and English monarchs to declare war on Philip III for the sake of the spice trade. Yet Grotius’ argument in *Mare Liberum*, combined with the treaty guarantees, served as a powerful justification of Dutch encroachment on the Iberian colonial empires during the Twelve Years’ Truce.³¹

Chapter six analyzes Grotius’ contribution to the Anglo-Dutch colonial conferences, held at London in 1613 and The Hague in 1615. On both occasions, he was the VOC’s chief spokesman. The talks were an attempt, albeit unsuccessful, to reduce the tensions between the Dutch and English East India Companies, which had arisen as a result of their fierce competition for the spice trade. There was little love lost between Grotius and the EIC negotiators.

³¹ *Les Négotiations de monsieur le President Jeannin* 4 vols. (Amsterdam, 1695) pp. 6–9, 11; Jan den Tex, *Oldenbarnevelt* 5 vols. (Haarlem: Tjeenk Willink & Zoon, 1962) Vol. II: *Oorlog, 1588–1609* pp. 596–598.

The latter were smart enough to quote “the author of *Mare Liberum*” in support of their claim that freedom of trade and navigation was, quite literally, unlimited. Grotius quickly rejected this suggestion. Had the inhabitants of the Spice Islands not signed delivery contracts and entered into military alliances with the VOC? Grotius insisted on the performance of these treaties, regardless of the detrimental consequences for the native signatories. After all, the natural law taught that *pacta sunt servanda*/treaties must be honored. A delivery contract was no less valid because it granted the VOC a perpetual right of preemption in the Spice Islands, even if it diminished the sovereignty and independence of their inhabitants. In Grotius’ view, it was the EIC that merited severe censure for its underhand trade with ‘disaffected’ islanders, who blatantly refused to fulfill their obligations to the VOC. While English merchants and commanders did not transgress the natural law themselves, Grotius had ample reason to believe that they abetted the natives in that ‘crime’. Once again he showed himself a formidable defender of the Dutch sea-borne empire, both intellectually and politically. There was a price to be paid. The Anglo-Dutch colonial conferences ended without any kind of agreement between the two trading companies. In the course of the negotiations, Grotius also gave his rights and contract theories a decidedly conservative twist, which stood in stark contrast with his own understanding of the developments in Southeast Asia. Thanks to the VOC directors, he was well informed about English interloping in the Spice Islands in the period 1605–1613, including the responses of indigenous rulers and VOC commanders, which, in most cases, were diametrically opposed to each other. Grotius had at his disposal the letters and reports of Laurens Reael, governor of the Moluccas, for example. These materials documented in great detail the political pressure that the Company’s officers put on the Sultan of Ternate in the spring of 1613, not to mention the threat of force used against his subjects, in order to get rid of the English interloper John Saris, captain of the *Clove*. Clearly, the VOC had ceased to be the natives’ champion and liberator from Portuguese tyranny—Grotius’ highly idealized image in *De Jure Praedae*—and become an oppressor in its own right. The inhabitants of the Spice Islands were eager to establish commercial relations with the EIC and resume their freedom of trade and navigation. In practice, they had little choice but to renew their contracts with the VOC year after year. They simply lacked the military means to dislodge the

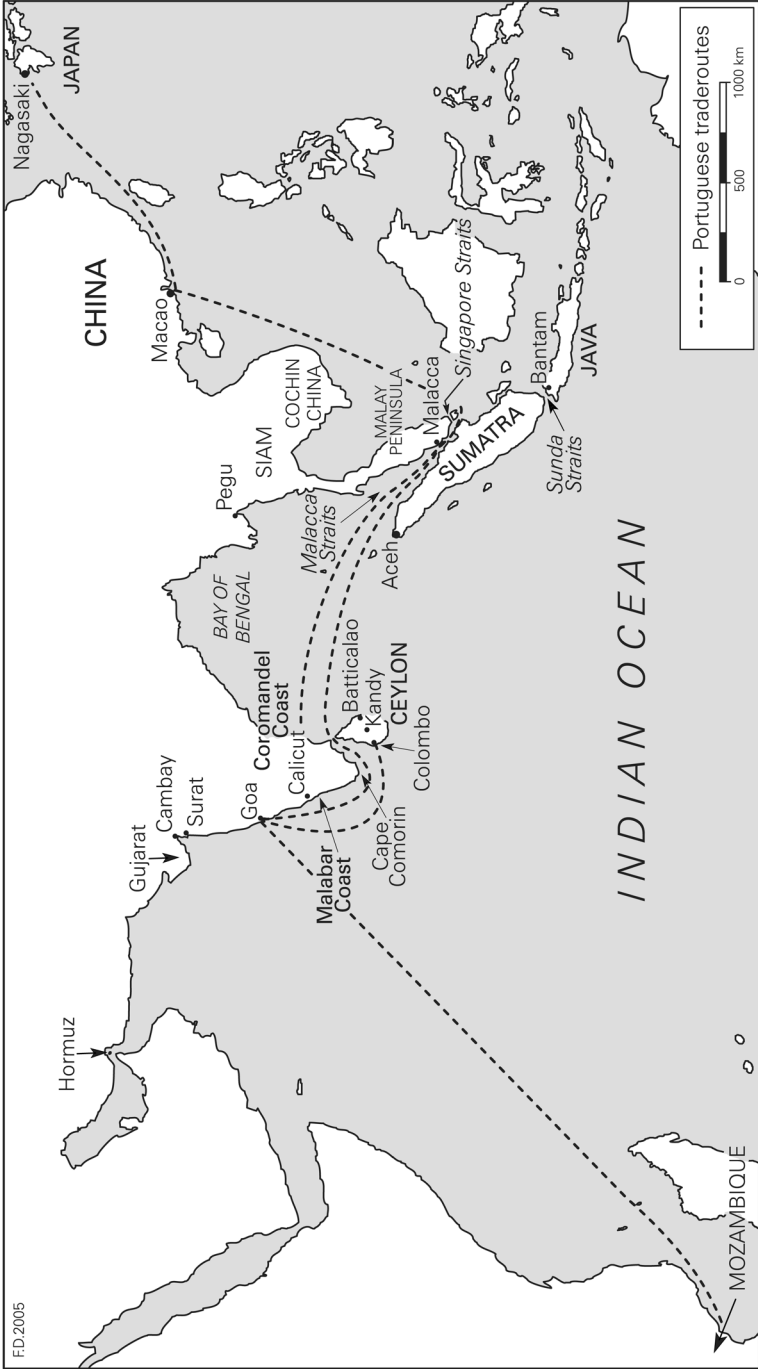
Company from their countries if they so wished. Grotius blatantly ignored these power differentials in his rights and contract theories. He insisted at the Anglo-Dutch colonial conferences that the inhabitants of the Spice Islands had concluded treaties with the VOC out of their own free will. He knew full well, of course, that if a signatory had not been free and *sui juris*, the contract could not be said to be valid in the first place.

In conclusion, the Cambridge School of Political Thought has correctly identified Grotius' rights and contract theories as a key component of Western imperialism and colonialism in the early modern period. Grotius did not philosophize for philosophy's sake. He wrote *De Jure Praedae* and published chapter 12 as *Mare Liberum* in order to safeguard the VOC's commercial interests and political needs. Freedom of trade and navigation was, in fact, indispensable to the Company's far-flung empire of trade. It served a two-fold purpose: a) undermine Iberian claims to the extra-European world and b) legitimize Dutch participation in the age-old trading systems of the Indian Ocean and China Sea. In most Asian ports where it established factories, the VOC was just one player among many and competed for business with both indigenous and European merchants. Under those circumstances, it put a high premium on freedom of trade and navigation. Yet Grotius' rights and contract theories were sufficiently flexible that they could also justify the VOC's attempts to monopolize the trade in nutmeg, mace and cloves. These spices were grown on small islands in Southeast Asia that easily succumbed to the Company's military and naval forces. Conveniently enough, Grotius argued that, as a judge and executioner in its own cause, the VOC had every right to enforce the delivery contracts (*pacta sunt servanda!*) and crush all forms of native opposition. The political and intellectual partnership between Grotius and the VOC directors does indeed bring out the dark side of modern liberalism. Grotius' rights and contract theories were not just coterminous with the rise of global trading empires in the seventeenth and eighteenth centuries, but made them possible in the first place.

VII *A Note on the Text and Illustrations*

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Science 31 (2003) pp. 511–548. All dates in the text are new style, unless otherwise indicated. Dutch place names have been modernized, but English terminology from the seventeenth century has been used to designate Asian seas, islands, regions and towns. These conventions also apply to the modern maps included in this volume. The illustrations are reproduced courtesy of the Royal Library in The Hague, the Maritime Museum Prins Hendrik in Rotterdam, and Prof. Peter Borschberg at the National University of Singapore.



Asia around 1600.



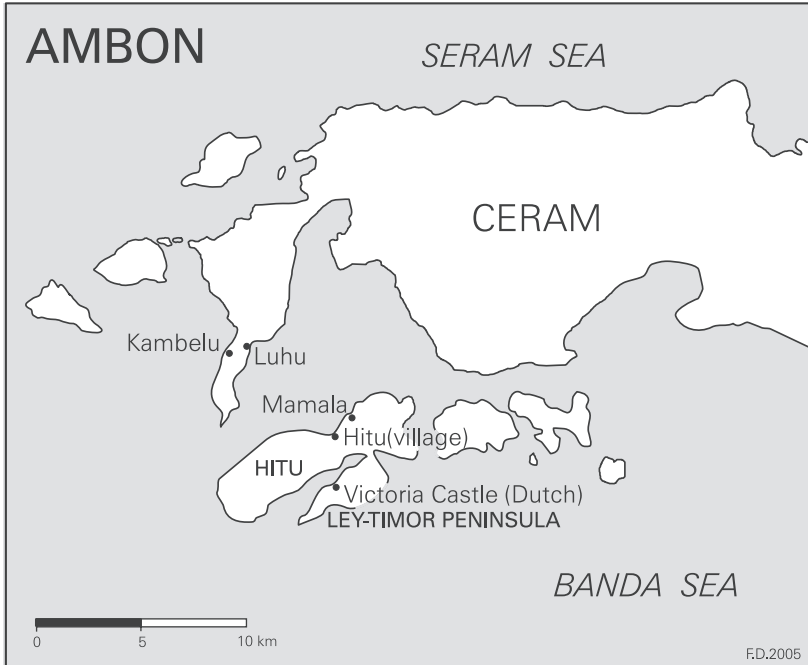
The Low Countries around 1600.



Europe around 1600.



Java around 1600.



Ambon proper consists of Hitu and the Ley-Timor Peninsula.

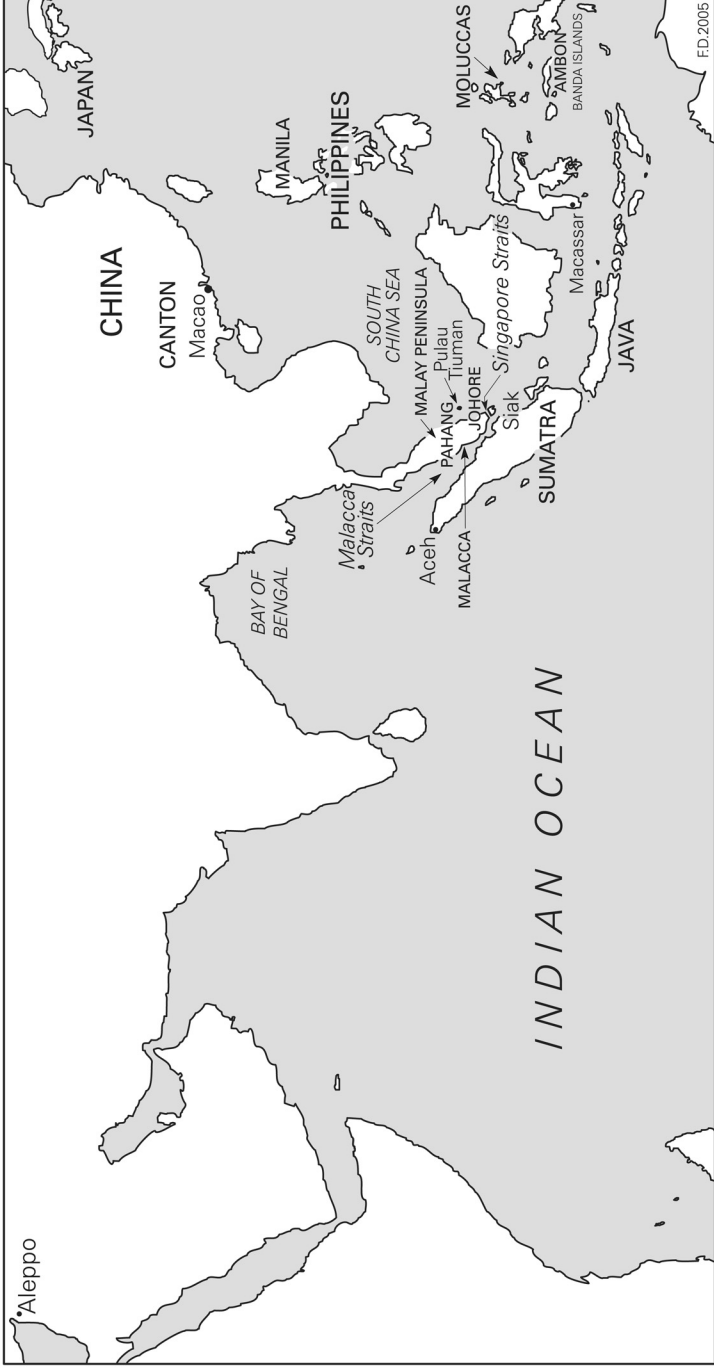
BANDA ISLANDS



MOLUCCAS

F.D.2005





Southeast Asia around 1600.

CHAPTER ONE

JACOB VAN HEEMSKERCK'S CAPTURE OF THE *SANTA CATARINA* AND ITS JUSTIFICATION IN *DE JURE PRAEDAE* (1604–1606)

1.1 *Introduction*

In the early morning hours of 25 February 1603, the Dutch commander Jacob van Heemskerck (1567–1607) attacked a richly laden Portuguese carrack at the entrance of Singapore Straits. Van Heemskerck's seizure of the *Santa Catarina* has been a famous episode in Dutch history ever since. The comparison that comes to mind is the Earl of Cumberland's capture of the *Madre de Dios*, worth £500,000, the richest prize in the annals of Elizabethan privateering. The cargo of the *Santa Catarina* was certainly as valuable as that of the *Madre de Dios*. It yielded over three million Dutch guilders—approximately £300,000—in gross proceeds for the directors of the United Amsterdam Company, a precursor of the United Dutch East India Company or VOC.

The *Santa Catarina* has another claim to fame as well. When the papers of the Dutch jurist Hugo Grotius (1583–1645) were auctioned in The Hague in 1864, it was discovered that the pamphlet *Mare Liberum* (The Free Sea) was in fact just one chapter of a much larger manuscript, written to defend the carrack's capture. The manuscript, which is 163 folios long, has a somewhat lopsided organization. The first half of the manuscript contains an introduction or *Prolegomena*, followed by ten chapters of legal principles, the so-called *Dogmatica de Jure Praedae*. The second half consists of a historical narrative in Chapter 11 and a Ciceronian closing argument in Chapters 12 through 15 that presents VOC privateering as just, honorable and beneficial. Grotius' vindication of Van Heemskerck is firmly grounded in the two chapters on justice, along with the historical narrative. Grotius legitimized Dutch privateering in the East Indies with the age-old concept of the just war, which he applied to individuals in Chapter 12 of the manuscript (*Mare Liberum!*) and to sovereign rulers in Chapter 13.



Fig. 4. Portrait of Jacob van Heemskerck.



Fig. 5. Portuguese Map of the Old Straits of Singapore, ca. 1641, showing the mouth of Johore River and Singapore Island (“Sincapura”). The dotted line to the south of Singapore Island (left in this picture) represents the Old Straits. Van Heemskerck attacked and captured the *Santa Catarina* at its eastern entrance. After a day-long fight the carrack was in danger of hitting underground shoals east of Singapore Island, indicated on this map by the large dotted area close to the center of the compass rose.

The manuscript was acquired by Grotius' *alma mater*, the University of Leiden, where it caught the attention of Robert Fruin, the greatest Dutch historian of the nineteenth century. Fruin persuaded H.G. Hamaker to transcribe and publish the manuscript, which appeared in print in 1868 as *De Jure Praedae* (On the Law of Prize and Booty). Fruin himself discussed its historical background in a lengthy article in the Dutch literary journal *De Gids* in 1868. Fruin's article remains the best introduction to the subject. It describes Van Heemskerck's voyage to the East Indies, gives other examples of Dutch privateering and analyses the political problems faced by the VOC as a result of Van Heemskerck's exploits. In his account, Fruin cites an impressive array of mostly archival sources, including Van Heemskerck's correspondence and 'Discourse and Advertisement', a summary of letters from the East Indies that had reached the Amsterdam VOC directors in March 1604. It was on the basis of these sources that Fruin carefully reconstructed the capture of the *Santa Catarina*.¹

Fruin's wonderful synthesis has not inspired any comparable historical studies in the 20th century. This certainly was not for lack of new source materials. In 1928, the first volume appeared of the critical edition of Grotius' personal correspondence. It suggested that *De Jure Praedae* had been written at the explicit request of the Amsterdam VOC directors between October 1604 and November 1606. Another important source edition was published in 1965, the so-called 'book treating of the cruel, treasonous and hostile procedures of the Portuguese in the East Indies'. The manuscript contains fifteen notarized attestations of Dutch merchants and mariners. It had been put together by the Amsterdam VOC directors and sent to Grotius on 15 October 1604. The attestations form the basis of

¹ H.G. Hamaker, *Hugonis Grotii De Jure Praedae Commentarius* (The Hague: Martinus Nijhoff, 1868); Robert Fruin, 'Een onuitgegeven werk van Hugo de Groot', *Robert Fruin's Verspreide Geschriften* ed. P.J. Blok, P.L. Muller, S. Muller 8 vols. (The Hague, Martinus Nijhoff, 1901) vol. III pp. 367–445, translated into English as 'An Unpublished Work of Hugo Grotius,' *Bibliotheca Visseriana* 5 (1925) pp. 3–71.

Nearly all of Van Heemskerck's letters to the Directors of the United Amsterdam Company were printed in *De Opkomst van het Nederlandsch Gezag in Oost-Indië (1595–1610)* ed. J.K.J. de Jonge 3 vols. (The Hague, 1862–65) Vol. II pp. 510–516. 'Discourse and Advertisement' was included in a source edition of P.A. Tiele, *Bijdragen en Mededelingen van het Historisch Genootschap* 6 (Utrecht, 1883) pp. 243–258.

Chapter 11 of *De Jure Praedae*, which narrates the early Dutch voyages to the East Indies in the period 1595–1602.²

Unfortunately, these source editions have not resulted in any new historical studies of Van Heemskerck's voyage to the East Indies or its conceptualization in *De Jure Praedae*. Few scholars take seriously the author's own introduction to *De Jure Praedae*. It explicitly denounces the "Spanish and Portuguese blockaders of the sea," intent upon destroying "all commerce with Asia," and justifies Dutch attacks on Iberian merchantmen as a much-needed enforcement of freedom of trade and navigation. Since the seizure of the *Santa Catarina* was "the most widely celebrated," Grotius decided to treat it as "the episode representative of all such captures." Although Grotius' statement of purpose could not have been clearer, it has fallen on deaf ears among many students of *De Jure Praedae*. The manuscript's historical context is considered a mere stepping stone for the far more important task of studying the intellectual pedigree of Grotius' natural law and natural rights theories.³

The present chapter seeks to correct the imbalance in Grotius scholarship. It compares and contrasts Van Heemskerck's voyage to the East Indies (1601–1604) with its conceptualization in *De Jure Praedae*. A mixture of published sources and hitherto unknown archival materials are used in order to reconstruct Van Heemskerck's voyage as accurately as possible. Of great importance are the newly discovered minutes of the council of naval officers of 4 December 1602 and Van Heemskerck's letter to the directors of the United Amsterdam Company of 27 August 1603. Thanks to these sources, we now have a full picture of the harrowing events that preceded and followed

² *Briefwisseling van Hugo Grotius* ed. P.C. Molhuysen, B.L. Meulenbroek and H.J.M. Nellen 17 vols. (The Hague, 1928–2001) Vol. I pp. 44, 72; P.C. Molhuysen, 'Over Grotius' *De Jure Praedae Commentarius*', *Bijdragen voor Vaderlandsche Geschiedenis en Oudheidkunde*, VI^e series, Vol. IV (1926) pp. 275–282; W.J.M. van Eysinga, 'Quelques observations au sujet du Mare Liberum et du De Iure Praedae de Grotius', *Grotiana* 9, first series (1941–42) pp. 61–75, particularly pp. 72–75; W.Ph. Coolhaas, 'Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*', *Bijdragen en Mededelingen van het Historisch Genootschap* 79 (1965) pp. 415–540.

³ Hugo Grotius, *Commentary on the Law of Prize and Booty*, 2 volumes, The Classics of International Law, no. 22 (Oxford: Clarendon Press, 1950) Vol. I: *A Translation of the Original Manuscript of 1604 by Gwladys L. Williams* pp. 1, 5; Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: Oxford UP, 1999) p. 79; Tuck, *Philosophy and Government, 1572–1651* (Cambridge: Cambridge UP, 1993) p. 170.

the carrack's capture. They also confront us with Van Heemskerck's own justification of the ship's seizure and his blueprint for Dutch trade and colonization in the East Indies. This has important implications for our understanding of *De Jure Praedae*. In the minutes and letter, Van Heemskerck laid the groundwork for the verdict of the Amsterdam Admiralty Court of 9 September 1604 and, indirectly, for Grotius' argument in *De Jure Praedae*. The Grotian notion of right—private individuals may punish transgressors of the natural law in the absence of an independent and effective judge—is already present in the minutes of Van Heemskerck's meeting with his naval officers on 4 December 1602.⁴

Although *De Jure Praedae* cannot be called a legal brief in the technical sense of the word—it is half theory, half apology—the manuscript does exemplify the classical principles of forensic rhetoric as formulated by Cicero and Quintilian. Its representation of historical events always serves to justify Dutch trade and privateering in the East Indies. For example, the letters exchanged between Van Heemskerck and the *capitão-mór* (governor) of Malacca are cited only in so far as they support Grotius' argument. Yet some passages in Van Heemskerck's correspondence suggest that the Portuguese administration in Asia did not leave him without legal recourse for his manifold grievances. Grotius' defense of the carrack's capture rested on the assumption that, for lack of an independent and effective judge, Van Heemskerck had been forced to punish the tyrannical Portuguese himself, as mandated by natural law. Yet try as he would, Grotius did not bring all the facts into line with his legal theory. For instance, it would have come as a surprise to both Van Heemskerck and the Sultan of Johore to learn that the *Santa Catarina* had been the Sultan's by natural right. Grotius' claim in *De Jure Praedae* was wholly erroneous: the Sultan of Johore never laid claim to the *Santa Catarina* at all. Instead, he was content to be rewarded by Van Heemskerck personally for his steadfast support of the Dutch against the Portuguese. Clearly, it is only through a careful reconstruction of events that we can gain a new perspective on the context and argument of *De Jure Praedae*.

⁴ Dutch National Archives, *Staten Gen.* 12551.21, *Loketkas processen nr. 21*, unfoliated (Jacob van Heemskerck to the VOC directors, 27 August 1603; Van Heemskerck's petition to the Dutch Estates General, undated, but signed by his lawyer P. van Veen, articles cxiii–cxviii).

1.2 *A Fruitless Voyage to the East*

The capture of the richly laden *Santa Catarina* was literally a godsend for Van Heemskerck, whose voyage to the East Indies had been dogged by bad luck right from the start. A month after his departure from Holland in April 1601, he found himself off the Canaries on a pitch-dark night and, worse, in the midst of an *armada* of 12 Spanish galleons. The ensuing battle killed several of Van Heemskerck's crew. His flagship *Amsterdam* and yacht *Red Lion* did not emerge unscathed either. Badly damaged, the latter vessel was forced to return to Holland. Van Heemskerck also lost contact with his second in command, Jean Grenier, whose ship was separated from the fleet and continued its eastward journey all alone. Ironically, the *Black Lion* was the only vessel to reach the fleet's projected destination, the port of Aceh on the northern tip of the island of Sumatra. Van Heemskerck failed to make landfall there due to adverse winds. Instead, the Javanese port of Bantam, situated just east of Sunda Straits, became his first port of call on 22 February 1602.⁵

Unfortunately, the prospects for trade at Bantam were far from rosy. The sight of six Dutch merchantmen lying at anchor in the roadstead was sufficient to throw the spice markets into turmoil and cause rapid price inflation. Van Heemskerck quickly realised that the spice markets would remain volatile unless he continued eastward with four of his six remaining ships, or at least gave the impression of doing so. His departure on 4 March 1602 did indeed result in lower pepper prices at Bantam. The Dutch factory lost no time to purchase spices and drogues of the finest quality for the two ships that he had left behind, the *Amsterdam* and *Hoorn*, and for the yachts *Enkhuizen* and *Green Lion*, which he sent back to Bantam in the middle of April. There was even sufficient pepper in stock to freight the *Black Lion*, which arrived from Aceh half-empty. All five vessels set sail for Holland on 11 May 1602, "richly laden with spices and other commodities of great value."⁶

Meanwhile, Van Heemskerck had run into serious difficulties on

⁵ H. Terpstra, 'De Nederlandsche Voorcompagnieën' in: *Geschiedenis van Nederlandsch Indië* ed. F.W. Stapel 6 vols. (Amsterdam, 1938) vol. II pp. 444–45; *Peper, Plancius en Porselein: De Reis van het Schip Swarte Leeuw naar Atjeh en Bantam, 1601–1603* ed. Jan Parmentier, Karel Davids, and John Everaert (Zutphen, Walburg Pers, 2003) pp. 22–32.

⁶ Terpstra, 'De Nederlandsche Voorcompagnieën' p. 446; *De Opkomst van het Nederlandsch Gezag in Oost-Indië* ed. De Jonge Vol. II pp. 508–509; *Peper, Plancius en Porselein* ed. Parmentier, Davids, and Everaert pp. 22–32.

his eastward journey along Java's north coast, which he undertook with just two ships, the *Alkmaar* and *White Lion*. His attempt to trade at the Javanese port of Japara ended in complete disaster: those members of his crew who happened to be ashore on 18 April 1602 were all arrested on the orders of Japara's overlord, the Sultan of Demak. Van Heemskerck did everything in his power to free the sailors—he first offered ransom and then blockaded Japara harbor, yet with precious little effect. The ruler released some of the prisoners, but not all. He retained twelve men to serve as gunners in the wars against his archenemy, the Mataram of Java, who held sway over the island's interior. With a heavy heart, Van Heemskerck set course for the port of Grissee on the eastern tip of Java, where he established a Dutch trading post. Since it was “now too late [in the season] for [visiting] the Moluccas,” Van Heemskerck tried to cross over to the island of Bali instead. He returned to Grissee a week later, beaten back by adverse tides. Undaunted, he immediately put out to sea again in a second attempt to reach Bali and strenuously battled the monsoon winds for another fortnight. It was all in vain. Van Heemskerck found himself in Grissee again at the end of June 1602.⁷

Van Heemskerck's return to Grissee was preceded by the arrival there of a Portuguese frigate, a supply ship belonging to the *armada* of André Furtado de Mendoza. The valiant *fidalgo* had been commissioned by the Viceroy at Goa to oust the Dutch from Southeast Asia. He besieged Bantam with his *armada* in December 1601 and ransacked the Spice Islands the following summer. Yet his intimidation tactics failed to impress Jan Pauwels, captain of the *Alkmaar* and Van Heemskerck's second in command. Pauwels obtained permission from the governor of Grissee to capture the frigate and confiscate its cargo, wherein he succeeded even before Van Heemskerck's recurrence on 25 June 1602. Letters were discovered aboard the frigate detailing the execution of 17 Dutch sailors at the Portuguese stronghold of Macao in Southern China the previous November. Lured ashore by white flags of truce, the mariners had first been incarcerated and then hanged in a Portuguese jail at Macao, contrary to the express wishes of the Chinese authorities. Van Heemskerck guessed, quite rightly, that the victims had belonged to the crew of

⁷ *De Opkomst van het Nederlandsch Gezag in Oost-Indië* ed. De Jonge Vol. II pp. 510–14; Coolhaas, ‘Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*,’ pp. 524–25.

Jacob van Neck, who had left Holland with seven ships in June 1600. Van Heemskerck flew into a white-hot rage over the judicial murder at Macao and shared his anger with the directors of the United Amsterdam Company. He wrote on 13 July 1602 that:

if it had not been for the Dutch captives in the Sultanate of Demak and the trading post I wanted to establish at Grissee, I would have hanged our remaining [Portuguese] prisoners from the bowsprit, in full sight of the Portuguese [merchants in Grissee].

In the same letter, Van Heemskerck expressed the hope that “God would send some Holland ships to intercept the *armada*.” He warned the directors that Ambon was already at the mercy of Furtado de Mendoza and that the Moluccas and Banda Islands would soon follow suit. “All of this could have been prevented, with relatively little effort, by the five Dutch ships that arrived in the East Indies in good time, had they been equipped in such a fashion as some would have liked.” The directors should quickly prepare a contingency plan, preferably in conjunction with the Dutch Estates General, “lest we lose the best spice producing regions.” Van Heemskerck intended to do his bit as well. “Since we lack Dutch warships to keep the enemy in check, we have to do it all ourselves.” When the governor of Grissee informed him that three Portuguese vessels had been sighted at Tuban, Van Heemskerck immediately set course for the Javanese port, “hoping to find a way to revenge the calamity that befell our men at Macao.”⁸

⁸ *De Opkomst van het Nederlandsch Gezag in Oost-Indië* ed. De Jonge Vol. II pp. 516–517; *Bijdragen en Mededelingen van het Historisch Genootschap* 6 pp. 244–245.

English translations of the Portuguese correspondence intercepted by Pauwels and Van Heemskerck’s letter of 13 July 1602 are forthcoming in Hugo Grotius, *Commentary on the Law of Prize and Booty*, trans. Gwladys L. Williams and Walter H. Zeydel, ed. Martine Julia van Ittersum, Natural Law and Enlightenment Classics (Indianapolis (IN): Liberty Fund, 2006).

Jacob van Neck, the commander of the Fourth Dutch Voyage to the East Indies (1601–1604), had arrived off Macao with two ships on September 27, 1601. Van Neck had been unaware of his location and put out first a sloop, then a longboat to take soundings in the harbor. The Portuguese officials at Macao, panic-stricken at the sight of the Dutch ships, had lured the crew of the sloop ashore with white flags of truce. The longboat had been captured the following day, when it came too close to the town. The Portuguese had made twenty prisoners in total and secretly hanged seventeen of them in November 1601. Marten Aap, the fleet’s legal officer, and two cabin boys had been sent to Goa, where the Portuguese Viceroy released them in March 1602. Compare *De Vierde Schipvaart der Nederlanders naar Oost-Indië onder Jacob Wilkens en Jacob van Neck (1599–1604)* ed. J.A. Foreest and A. de Booy, 2 vols. (The Hague: Martinus Nijhoff 1980–1981) pp. 205–212, 276–302; L. Blussé. ‘Brief Encounter at Macao’, *Modern Asian Studies* 22 (1998) pp. 647–663.

To his delight, Van Heemskerck discovered at Tuban that “clove cargoes had become nutmeg loads, and that enemies had changed into friends.” The three ‘Portuguese’ vessels were in fact the yacht *Dove* and merchantmen *Gelderland* and *Utrecht*, which had returned from the Banda Islands under the command of Wolphert Harmenszoon. It was in conversation with the latter that Van Heemskerck realised the seriousness of the situation in the Spice Islands. If warships were not sent forthwith to defeat the Portuguese *armada*, “we might well lose these places.” Van Heemskerck burnt with a desire to go to the Spice Islands “in the hope of doing those countries and ourselves some service, should the opportunity arise.” He realised that it was easier said than done. Neither the directors’ instructions nor the commission of Prince Maurice, Lord High Admiral of Holland, authorized him to engage in offensive warfare. More importantly, he failed to persuade the crew of the *Gelderland* and *Utrecht* to volunteer for the risky expedition. The Dutch commanders went their separate ways: one proceeded to Bantam, while the other returned to Grisee.⁹

Van Heemskerck went back to Grisee for a reason. He wanted to buy cloves, nutmeg and mace from the Javanese junks that had visited the Moluccas and Banda Islands. In addition, he made a

News of the events in Macao traveled fast: the Flemish merchant Jacques de Coutre knew all about the execution of the Dutch sailors when he met Van Neck in the port of Patani in the summer of 1602. De Coutre was smart enough to inform Van Neck that the Viceroy at Goa had denounced the judicial murder in the strongest terms and had already taken steps to set matters aright. Interestingly, De Coutre detected a difference in the reactions of Van Neck and Van Heemskerck. Van Neck had no intention to punish the Portuguese in Patani for the miscarriage of justice in Macao. When Van Heemskerck arrived in Patani, however, he apparently contemplated executing the Portuguese prisoners that were still aboard his ship. According to De Coutre, the lives of the six prisoners were only saved because of Van Neck’s intercession with Van Heemskerck, who had formerly served as one of Van Neck’s squadron commanders during the Second Dutch Voyage to the East Indies (1598–1600). Compare *Aziatische omzwevingen: het leven van Jacques de Coutre, een Brugs diamanthandelaar, 1591–1627* trans. and ed. Johan Verberckmoes and Eddy Stols (Berchem, Belgium: EPO Publishers, 1989) pp. 99–100.

“Five Dutch ships” was Heemskerck’s shorthand for the squadron of Wolphert Harmenszoon, which had left Holland together with his own fleet, but reached Sunda Straits two months earlier. Wolphert Harmenszoon had immediately engaged the *armada* of André Furtado de Mendoza that besieged Bantam. Although numerically superior, the Portuguese naval forces turned tail on New Years Day 1602. Needless to say, the Dutch commander was the toast of the town when he anchored in Bantam’s roadstead two days later.

⁹ *De Opkomst van het Nederlandsch Gezag in Oost-Indië* ed. De Jonge Vol. II p. 517.

second attempt to free the Dutch prisoners at Demak, this time through the mediation of the "King of Jortan." His optimistic scenario failed to materialize. As a result of the scorched earth tactics of André Furtado de Mendoza, thirty Javanese junks arrived from the Spice Islands completely empty. Nor could the ruler of Demak be persuaded to release his Dutch prisoners. Van Heemskerck realized that he had very little to show for a five-month journey along Java's northern coast. It was not just that the *Alkmaar* and *White Lion* still lacked return cargoes. Dutch trade in the East Indies seemed about to collapse under the Portuguese onslaught, without him being able to prevent it. In this knowledge, he set sail for the Malay Peninsula on 27 July 1602.¹⁰

New setbacks awaited him at Patani, the pepper emporium on the east coast of the Malay Peninsula. Van Heemskerck had sailed to Patani on the assumption that he would find only two Dutch ships there, the *Amsterdam* and *Gouda* commanded by Jacob van Neck. Yet he had reckoned without Gerard le Roy, commander of the Zeeland ships *Middelburg* and *Sun*, who had reached the Malayan port three months earlier. Le Roy and Van Neck had jointly purchased return cargoes for their ships and exhausted the town's pepper stocks. Van Heemskerck could not conceal his disappointment in a letter written to the directors of the United Amsterdam Company on 23 August 1602. He complained that he had once again "laid his hand in an empty place," which presented him with a stark choice. It might be worthwhile to wait for the new pepper harvest in ten months' time, provided prices remained stable at Patani and no other Dutch merchants called there. Even then, Van Heemskerck could not expect to obtain large quantities of pepper. He hardly had any cash on hand, nor did he have sufficient merchandise aboard the *Alkmaar* and *White Lion* to engage in substantial barter.¹¹

¹⁰ Ibidem pp. 518–523.

The "King of Jortan" may well have been the same person as the governor of Grisse. Jortan was, in fact, Grisse's dockland.

¹¹ *De Opkomst van het Nederlandsch Gezag in Oost-Indië* ed. De Jonge Vol. II p. 523; *De Vierde Schipvaart der Nederlanders naar Oost-Indië* ed. Foreest and De Booy pp. 307–308.

Since European manufactures were not in high demand in Asia, Dutch merchants had no choice but to buy spices with American silver, imported from Spain. Van Heemskerck had left fifty thousand reals of eight behind in Bantam in order to facilitate the purchase of return cargoes for four of his six ships.

Despite these difficulties, Van Heemskerck was still at Patani on 7 November 1602, when he sent a letter to Adriaen Schaeck, head of the Dutch factory at Grisse. Following Van Neck and Le Roy's departure for Bantam on 22 August, he had managed to purchase a small quantity of pepper and, more importantly, a large variety of textiles, which were in high demand in the Spice Islands. He was busy loading rice for the Banda Islands and fully intended to leave Patani within five or six days. Yet he despaired at ever vending the Dutch commodities aboard his ships, worth approximately 20,000 Dutch guilders. He had therefore decided to follow the example of Van Neck and entrust his leftover trade goods to Daniel van der Leck, who was in charge of the Dutch factory at Patani. Indeed, the port boasted a brand new 'Holland House', 60 feet long and 24 feet wide, constructed by Van Heemskerck himself. In the letter to Schaeck, he emphasized that he had been well received at Patani and that he had enjoyed "very great friendship" with both the magistrates and people.¹²

Like so many Asian ports, Patani did have a Portuguese quarter. Van Heemskerck and his men considered its inhabitants a fifth column in the pay of Malacca. Pauwels was convinced, for example, that the Portuguese merchants had already put a price on the head of every Dutchman at the time of Van Neck's arrival in the port. Van Heemskerck wrote to Schaeck that Portuguese merchants had offered presents to the Queen of Patani, Raja Hijau, in order to persuade her to demolish the Holland House and that they had warned her explicitly not to grant the Dutch "any such privilege," hinting darkly at "the problems that might arise as a result." Much to his relief, the Portuguese merchants had gotten nowhere with their scare tactics. They had certainly failed to impress the Dutch sailors swaggering about town. Pauwels added in a postscript that "[the Portuguese] had to earn their right of way by giving our men some coins as drink-money." It was only at the Queen's personal request that "we now leave them unmolested." It must have been an uneasy peace to keep for the ruler of Patani.¹³

¹² *De Opkomst van het Nederlandsch Gezag in Oost-Indië* ed. De Jonge Vol. II pp. 525–26; *De Vierde Schipvaart der Nederlanders naar Oost-Indië* ed. Foreest and De Booy pp. 309–311; *Bijdragen en Mededelingen van het Historisch Genootschap* 6 p. 244.

¹³ *De Opkomst van het Nederlandsch Gezag in Oost-Indië* ed. De Jonge Vol. II pp. 526–527; *De Vierde Schipvaart der Nederlanders naar Oost-Indië* ed. Foreest and De Booy pp. 309–311; *Bijdragen en Mededelingen van het Historisch Genootschap* 6 pp. 244–245.

Van Heemskerck set out to sea on 16 November 1602 and cast anchor off Pulau Tiuman, a small island east of the Malay Peninsula, two weeks later. He had decided to postpone his voyage to the Banda Islands and, meanwhile, to lie in wait for Portuguese carracks plying between Macao and Malacca. The change of plan was a direct result of his meeting with Raja Bongsu, younger brother of the “King of Johore,” Ala’ud-din Ri’ayat Shah III, who ruled the southern half of the Malay Peninsula until his death in 1615. Raja Bongsu had celebrated his wedding at Patani at the beginning of November and visited Van Heemskerck aboard the *White Lion*. He had offered Van Heemskerck the friendship of the Sultan of Johore and urged him to intercept Portuguese carracks *en route* from Macao, pledging Johore’s assistance. The Queen’s treasurer and the port master of Patani had chimed in as well. They had given Van Heemskerck valuable information about the carracks’ itinerary and assured him that “he could never damage the Portuguese enough.” The Queen

The Portuguese perspective on the behavior of Van Heemskerck and his men in Patani was, of course, a different one. The Flemish merchant Jacques de Coutre had nothing positive to say about Van Heemskerck and Pauwels in his account of his travels in Monsoon Asia. De Coutre feared both men just as much as they distrusted him. He realized that they had successfully bribed the Patani officials to turn a blind eye on their harassment of the Portuguese. He also held them responsible for sinking a richly laden junk in Patani harbor, which carried all his trade goods on board—“as a result, I again lost everything that I owned and that I had acquired in Manilla.” Van Heemskerck seems to have believed that the junk in question carried only Portuguese passengers and merchandise. He apologized to De Coutre, and even tried to enlist him as a senior merchant aboard his fleet, but without success. When De Coutre left the port of Patani aboard another junk, he was forced to pay Van Heemskerck 100 escudos as drink-money for the latter’s men. Compare *Aziatische omzwevingen* trans. and ed. Verberckmoes and Stols pp. 100–105.

The Queen of Patani was nominally at peace with the *Estado da Índia*. Judging by Van Heemskerck’s letters, she did not just object to the uncivil behavior which his men displayed towards Portuguese traders in the streets of Patani, but also made it crystal clear to him that she would not brook any attacks on Portuguese merchantmen that should call at Patani. Under pressure from the Dutch factors at Patani, she changed her mind in March 1605, when another opportunity offered itself to capture a Portuguese carrack. VOC commander Wijbrandt van Warwijck received permission to take the *Santo Antonio* riding at anchor in Patani harbor, provided that the booty was shared equally between them. Compare Dutch National Archives, *Staten Gen.* 12551.21, *Lokethas processen nr. 21*, unfoliated (Jacob van Heemskerck to the directors of the United Amsterdam Company, 27 Aug. 1603) and Peter Borschberg, ‘The Seizure of the *Santo António* at Patani: VOC Freebooting, the Estado da Índia and Peninsular Politics, 1602–1609’, *Journal of the Siam Society* 90 (2002) pp. 59–72.

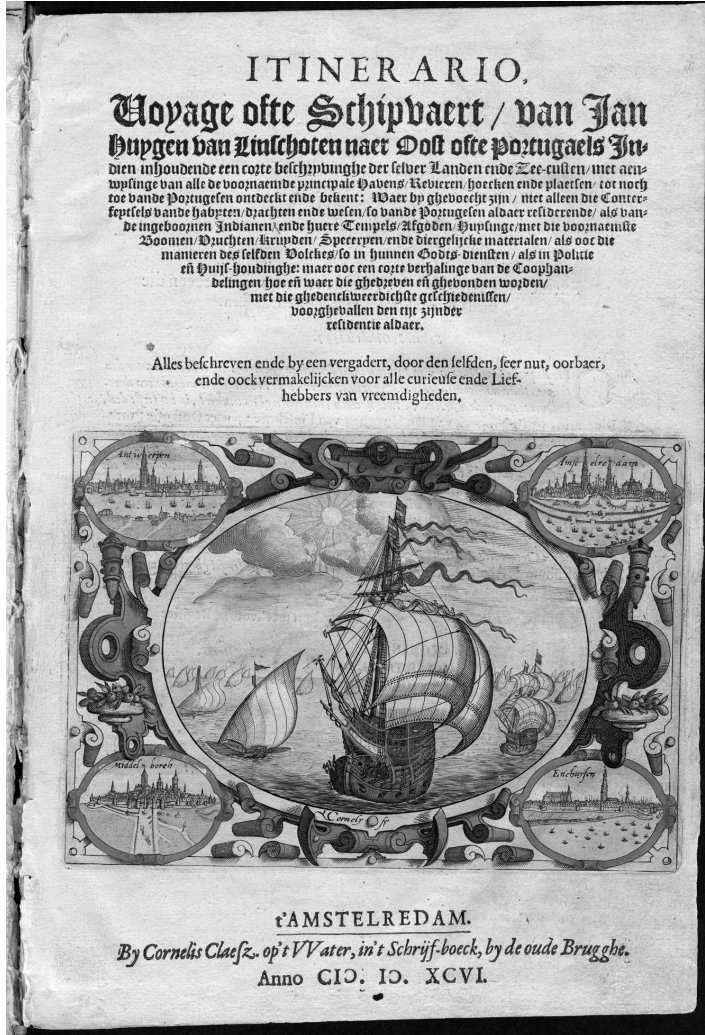


Fig. 6. Title page of Jan Huygen van Linschoten's *Itinerario*. Grotius had a copy in his library in 1618. In all likelihood, he purchased it while writing *De Jure Praedae*.



Fig. 7. Asians harvesting coconuts, figs and pepper, in Jan Huygen van Linschoten's *Itinerario*.

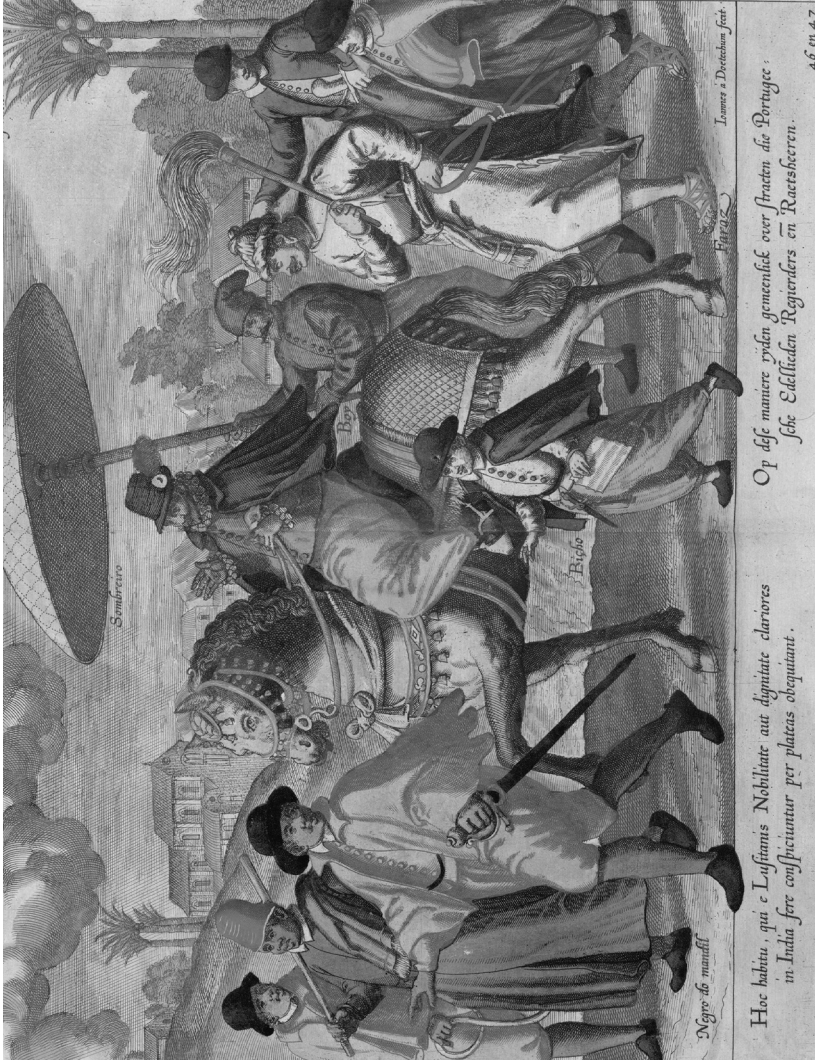


Fig. 8. An official of the *Estado da India* on horseback, in Jan Huygen van Linschoten's *Itinerario*.

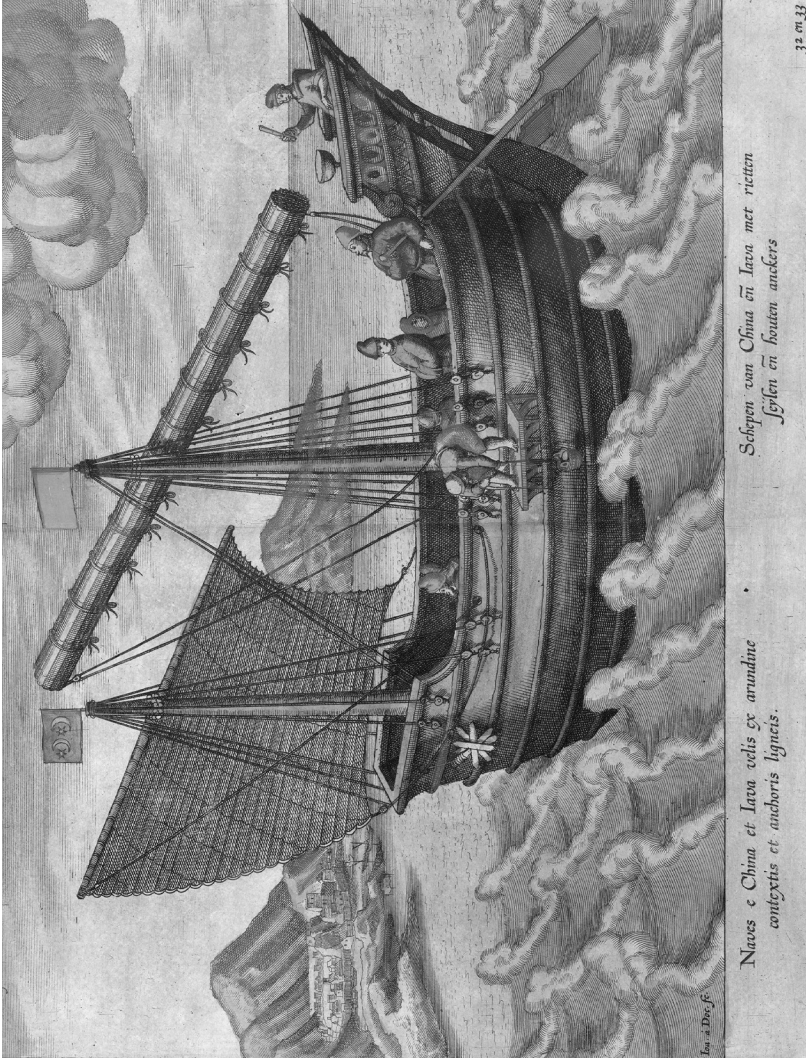


Fig. 9. Depiction of a Chinese junk in Jan Huygen van Linschoten's *Itinerario*.

let it be known that she might be persuaded to break off all relations with Malacca and assist the Dutch in besieging it, provided the Dutch undertook to supply her subjects with textiles from India's Coromandel Coast, a trade then controlled by Portuguese merchants. All this was music to the ears of Van Heemskerck, who could be forgiven for concluding that indigenous rulers entertained a Dutch-style notion of the freedom of the high seas.¹⁴

There was another reason why Van Heemskerck gave serious consideration to Raja Bongsu's proposal. He had been in correspondence with the Sultan of Johore even before he met Raja Bongsu in Patani and keenly appreciated the Sultan's anti-Portuguese stance. We may recall that Van Heemskerck had blockaded Japara harbor in April 1602 in a fruitless attempt to free the sailors who had been imprisoned by the ruler of Demak. One victim of the naval blockade had been a richly laden junk from Johore. After seizing its precious cargo, Van Heemskerck had sent the empty vessel and its captain to the ruler of Demak. He had promised the Johorese captain to either return the confiscated goods or reimburse him in gold coin if he obtained the release of the Dutch captives. When the ruler of Demak refused to play along, Van Heemskerck had proceeded to Grisse, where, as luck would have it, another Johorese merchantman was lying at anchor, ready to depart for the Sultanate. Van Heemskerck

¹⁴ *Bijdragen en Mededelingen van het Historisch Genootschap* 6 pp. 244–245; Coolhaas, 'Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*,' pp. 526–27; Dutch National Archives, *Staten Gen. 12551.21, Lokethas processen nr. 21*, unfoliated (Jacob van Heemskerck to the directors of the United Amsterdam Company, 27 Aug. 1603).

The "King of Johore" was 'Ala'ud-din Ri'ayat Shah III of Johore. His younger brother, Raja Bongsu *alias* Raja Sabrang, became the leader of a pro-Dutch faction at the Johorese court. He ascended the throne upon the demise of his elder brother in 1615 and ruled as Abdullah Ma'ajat Sjah until his own death in 1623. In Van Heemskerck's letter of 27 Aug. 1603 and his attestation of 4 Oct. 1604, Raja Bongsu is confused with Rage Syack *alias* the Prince of Siak, who ruled Johorese territories on Sumatra's east coast. Rage Syack was, in fact, the leader of the pro-Portuguese faction at the Johorese court, which gained the ascendancy at the beginning of the Twelve Years' Truce.

Compare Peter Borschberg, 'Security, VOC Penetration and Luso-Spanish Co-operation: The Armada of Philippine Governor Juan de Silva in the Straits of Singapore, 1616', *Iberians in the Singapore-Melaka Area (16th to 18th century)*, South China and Maritime Asia Vol. 14 (Wiesbaden: Harrassowitz Verlag, 2004) pp. 35–62, note 25 on p. 43; Borschberg, 'Luso-Johor-Dutch Relations in the Straits of Malacca and Singapore, ca. 1600–1623', *Itinerario* 28 (2004) pp. 15–33, particularly p. 24; Borschberg, 'Portuguese, Spanish and Dutch Plans to Construct a Fort in the Straits of Singapore, ca. 1584–1625', *Archipel* 65 (2003) pp. 55–88, particularly pp. 76–77.

had immediately freed two crew members of the junk captured at Japara, bought them passage to Johore and provided them with a letter and presents for their sovereign. The Sultan was entreated not to hold against Van Heemskerck “the injuries suffered by his subjects as a result of the junk’s seizure” and was given assurances of Van Heemskerck’s willingness to offer compensation. This explanation had clearly been sufficient to satisfy the Johorese ruler. When he learnt of Van Heemskerck’s arrival in Patani, he had sent two replies, both to the effect that:

I had done well, saying that he had never heard of Hollanders who harmed their friends, and that it was laudable to revenge oneself for any injuries sustained. If he, or any of his subjects, had been adversely affected in the process, this would serve as their consolation. He did not demand any compensation except for my own and the Hollanders’ friendship. In addition, he asked me kindly to call at his ports with my ships, as his harbours were much more convenient for loading spices than anchorage grounds elsewhere. Item that I would find him a man very different from the kings in other places where we had sought to trade.

The Sultan’s liberal answer had been followed by Raja Bongsu’s visit to the *White Lion* in the roadstead of Patani, which must have clinched matters for Van Heemskerck. For all he knew, the Banda Islands had been completely ravaged that summer by the *armada* of Furtado de Mendoza. Yet the Sultan of Johore was clearly a man he could do business with, regardless of whether Portuguese carracks would actually materialize off Pulau Tioman. He had little to lose, and much to gain, by fishing in the troubled waters surrounding the Malay Peninsula.¹⁵

When Van Heemskerck reached Pulau Tioman on 3 December 1602, he intended to stay there for thirty days in order to maximize his chances of intercepting Portuguese merchantmen. Since it was a risky venture—a month might pass by without a single carrack appearing on the horizon, Van Heemskerck needed the full cooperation of his naval officers, collectively known as the Broad Council. He called an official meeting of the Broad Council for 4 December in order to discuss “the opportunity at hand; how we should deal with it and

¹⁵ Coolhaas, ‘Een bron van het historische gedeelte van Hugo de Groot’s *De Jure Praedae*,’ pp. 525–526.

await God's blessings during this month without shortchanging ourselves and our trade prospects." At the meeting, he obtained his officers' unanimous consent and written approval. Lest the directors of the United Amsterdam Company objected to thirty days of idling at sea, or a pitched naval battle that would endanger ships, crew and cargo, both Van Heemskerck and his officers put their signatures to an elaborate policy document that justified their actions.¹⁶

1.3 *In Defense of Freedom of Trade and Navigation*

The Broad Council agreed with Van Heemskerck that, in all likelihood, the Japan carrack would pass by the island of Pulau Tiunan within twenty or twenty-five days, along with "the ship of the *capitão-mór* of Malacca" and "two smaller vessels or junks." Van Heemskerck had little difficulty persuading his men of the tactical benefits of intercepting these merchantmen, since "we cannot do greater harm and damage to our public enemy in all the East Indies." Portuguese trade with China and Japan was indeed of prime importance for the Habsburg rulers of the Iberian Peninsula, who expended a large part of their colonial revenues in a long, and ultimately fruitless, struggle against their rebel subjects in the Low Countries. There was another consideration as well. The Broad Council believed it should do everything in its power to preserve Dutch trade in the East Indies and "keep the enemy in check, lest he continue with his *armada* as he has done before." The Portuguese had already put a price on the heads of Dutch merchants and sailors, incited indigenous rulers against them and used every expedient, however "base or godless," to destroy them "root and branch." The murder of Van Neck's crew at Macao was a case in point. The Broad Council did not doubt that the ravenous Portuguese continued to target "all natives who offer us trade and friendship." Nothing good could be expected of

¹⁶ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Jacob van Heemskerck to the directors of the United Amsterdam Company, 27 August 1603, and minutes of the Broad Council, 4 Dec. 1602, as recorded in a notarized copy of 24 May 1605).

English translations of the minutes of the Broad Council and Van Heemskerck's letter of 27 August 1603, addressed to the directors of the United Amsterdam Company, are forthcoming in Grotius, *Commentary on the Law of Prize and Booty*, ed. Van Ittersum.

the Portuguese *armada* that had already besieged Bantam in winter and conquered Ambon in spring and that might well go to Ternate or the Banda Islands next. Its whole purpose was, "Heaven forbid," to intimidate indigenous rulers, "using force against one king, threats and menaces against another," until they agreed to bar Dutch merchants from their markets and Dutch ships from their harbors. The Broad Council deemed it "very necessary and advisable" to defy the enemy and show native peoples that "we do not fear Portuguese arms." Since the enemy meant to extirpate the Dutch "with all possible means," there was no other option but to "attack and harm him wherever we can or may." A perfect opportunity had meanwhile presented itself to "inflict the greatest damage with the least loss of time." The Broad Council ordered the *Alkmaar* and *White Lion* to stay near Pulau Tiunan for the month of December in order to "await whatever victory the Almighty shall grant us against our public enemy."¹⁷

The importance of this resolution cannot be overestimated: it laid the groundwork for the verdict of the Amsterdam Admiralty Court nearly two years later, which, in turn, contributed to Grotius' argument in *De Jure Praedae*. Although Van Heemskerck did not act in self-defense and lacked a proper letter of marque, the Broad Council declared that he could legitimately attack Portuguese shipping out of revenge for injuries suffered by third parties, be they compatriots employed by another trading company or indigenous merchants who had contracted with Van Heemskerck. Grotius made the exact same point in *De Jure Praedae*. The Portuguese had allegedly engaged in systematic brutality against Dutchmen and native peoples alike, just to prevent them from exercising their natural right to trade with one another. There was no doubt in Grotius' mind that these Portuguese transgressions of the natural law justified Van Heemskerck's decision to attack all enemy shipping in Malayan waters.¹⁸

The resolution of the Broad Council was incorporated into the verdict of the Amsterdam Admiralty Court, which confiscated the *Santa Catarina* and declared it good prize on 9 September 1604. The Admiralty judges agreed with the Broad Council that Van Heemskerck had every right to secure the East Indies trade and pre-empt the "extreme procedures" of the Portuguese. Yet it was just one justification

¹⁷ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (minutes of the Broad Council, 4 Dec. 1602).

¹⁸ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 168–282.

among many. The verdict also cited natural law and *ius gentium*, a decree of the Dutch Estates General of 2 April 1599, and the commission that Van Heemskerck had received from Maurice of Nassau. Nor did the Admiralty judges make much of an effort to distinguish between the different kinds of justification. The verdict was one big jumble, intellectually speaking.¹⁹

The Admiralty judges emphasized in their verdict that Van Heemskerck had never exceeded the authority granted him by Maurice of Nassau, Lord High Admiral of Holland and a sovereign prince in his own right. Van Heemskerck's commission permitted the use of force in self-defense and, more importantly, in order to obtain reparations for damages sustained. The judges noted that "various documents, depositions, resolutions and other strong proofs" had been exhibited by the "plaintiffs"—viz. Van Heemskerck and the VOC directors, documenting the outrages committed by the Portuguese. Indeed, the first half of the verdict is an elaborate reconstruction of the supposed Portuguese conspiracy and contains a plethora of highly accurate historical details, which suggests that the correspondence of Jacob van Heemskerck and Wolphert Harmenszoon was put at the judges' disposal by the United Amsterdam Company. Yet the capture of the *Santa Catarina* could be justified on grounds other than the commission which Van Heemskerck had received from Maurice of Nassau, instructing its bearer to seek reparation for damages sustained.²⁰

The Admiralty judges also referred in their verdict to the resolution of the Broad Council. Van Heemskerck and his officers were said to have voted unanimously:

not just to resist an enemy who had subjected the Dutch to so much harm, abuse, trouble and tyranny, but to inflict the greatest possible damage in order to prevent any repetition thereof in the future. By these means, permitted by natural law and *ius gentium* and enjoined by the commission of his Princely Excellency, the East Indian trade, so important to these Provinces, might be continued peaceably, free of violence and without let or hindrance.

¹⁹ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (notarized copy of the verdict of Amsterdam Admiralty Court, 9 September 1604).

An English translation of the verdict of the Amsterdam Admiralty Court is forthcoming in Grotius, *Commentary on the Law of Prize and Booty*, ed. Van Itersum.

²⁰ *Ibidem*.

There are two new elements here as compared to the original resolution of the Broad Council. Privateering had been a measure of last resort for Van Heemskerck and his officers. In their view, dire necessity had compelled them to secure Dutch trade in the East Indies and revenge the injuries which the Portuguese had inflicted on their compatriots and indigenous trading partners. Yet the verdict gave additional justifications for their premeditated attack on Portuguese shipping. It mentioned, once again, the commission of Maurice of Nassau and appealed to natural law and *jus gentium* as well. This formula was no model of consistency. How could Prince Maurice's commission possibly justify the capture of the *Santa Catarina*, for example, when Van Heemskerck had neither been attacked nor harmed by the Portuguese in any way? It was a question conveniently dodged by the Admiralty judges. Their references to natural law were equally vague and haphazard. They made no attempt to explain, for example, why natural law should have permitted the use of force in this particular case. Nor did they determine whether it was natural law, or some other legal principle, that mandated freedom of trade and navigation in the East Indies. Indeed, there are only two references to *ius gentium* in the entire verdict, which is over five folios long!²¹

Clearly, the Admiralty judges considered *ius gentium* just another convenient argument to validate the seizure of the *Santa Catarina*. Their second reference to the law of nations was little more than an afterthought. *Ius gentium* was briefly mentioned in their conclusion, which listed the various legal principles that had been brought to bear on the case. The judges' first consideration was that the carrack belonged to the "subjects of Philip III, enemies of these United Provinces and its Indies trade, which they tried to eradicate by means of violence, intrigue, and deceit." Their second consideration was that Van Heemskerck had adhered strictly to "written law and *ius gentium*," and obeyed the edict of the Dutch Estates General of 2 April 1599, which made all Iberian ships and their cargoes fair game for Dutch privateers. Most importantly, Van Heemskerck had been granted a commission by Maurice of Nassau, which convinced even the *capitão-mór* of Malacca that "Van Heemskerck had captured the carrack in a just war."²²

²¹ Ibidem.

²² Ibidem.

This, then, was the verdict of the Amsterdam Admiralty Court. The judges were content to jumble together natural law, *ius gentium* and the concept of the just war without clarifying what, if any, connections there might be between these on a theoretical and practical level. Nor did the interested parties desire any such clarification. The internal consistency of legal principles was of no concern to Van Heemskerck, the directors of the United Amsterdam Company, Maurice of Nassau and the Dutch Estates General as long as the judges' list of loosely related arguments did the trick of justifying the carrack's capture. Nothing else was necessary. Judging by Dutch diplomatic practice, the defense of the country's economic interests did not require any kind of comprehensive or profound legal knowledge. When Dutch envoys negotiated commercial treaties with other countries—England, for example—they routinely cited as many legal principles and precedents as possible, however contradictory these might be. Yet the verdict of the Amsterdam Admiralty Court must have inspired Hugo Grotius with very different thoughts when he received it from Jan ten Grootenhuys shortly after 20 October 1604.²³

Jan ten Grootenhuys (1573–1646) was the younger brother of VOC director Arent ten Grootenhuys (1570–1615) and served as a liaison between Grotius and the Amsterdam VOC directors in the autumn of 1604. Though trained as a jurist, Jan ten Grootenhuys shared his former roommate's enthusiasm for the *studia humanitatis*. When he wrote to Grotius on 15 October 1604, he could not resist angling for news from the world of letters. Yet this VOC shareholder knew when to put business before pleasure. The main purpose of his letter was to remind Grotius to write the *apologia* requested by the VOC directors. It also served as a cover letter for a big bundle of papers, which “you have been expecting for a long time.” It consisted of a collection of sworn statements entitled “book treating of the cruel, treasonous and hostile procedures of the Portuguese in the East Indies.” In addition, Grootenhuys promised to send Petrus Plancius' learned communications on eastern navigation, (example) letters of marque and anything else that Grotius should like to have from the VOC directors “at the first opportunity.” We know that Grotius received copies of other important documents on 20 October

²³ S. Muller, *Mare Clausum: Bijdrage tot de Geschiedenis der Rivaliteit van Engeland en Nederland in de Zeventiende Eeuw* (Amsterdam, 1872) pp. 58–67, 79–82, 90–91, 111,

1604. The documents in question were the resolution of the Estates of Holland of 1 September 1604, rescinding the province's claim to the *Santa Catarina*, the verdict of the Admiralty judges of 9 September 1604 and the attestation of Martin Apius, one of the few survivors of the Macao massacre. In his accompanying note, Grootenhuys promised to write a long letter and send even more materials the following day. There is reason to believe that the third package contained, among other things, 'Discourse and Advertisement', a summary of the letters which the VOC directors had received from Asia in March 1604, including Van Heemskerck's own description of his capture of the *Santa Catarina*. All these materials Grotius incorporated in one form or another in *De Jure Praedae*.²⁴

De Jure Praedae can be regarded as Grotius' attempt—a highly successful one—to disentangle the various strands of law heaped together in the verdict of the Amsterdam Admiralty Court. This was not what the VOC directors had in mind when they commissioned him to write a "defense of this case." In their view, the verdict had settled all the legal aspects of the carrack's confiscation, including, of course, the joint assignment of the prize goods to themselves (as successors of the defunct United Amsterdam Company) and Van Heemskerck and his crew. They realized, however, that it would take more than one court battle to win widespread political support for their cause, both domestically and internationally. They needed Grotius to advertise Portuguese iniquity to a readership that was not privy to the Amsterdam courtrooms or the assembly hall of the Estates of Holland.

134–35, 140–41, 149–56; T.M. Fulton, *The Sovereignty of the Sea: An Historical Account of the Claims of England to the Dominion of the British Seas, and of the Evolution of the Territorial Waters; with special reference to the Rights of Fishing and the Naval Salute* (London, 1911) pp. 156–76, 185–91; J.C. Grayson, 'From Protectorate to Partnership: Anglo-Dutch relations, 1598–1625', Unpublished D. Phil thesis (London, 1978) pp. 246–59.

²⁴ *Briefwisseling van Hugo Grotius* Vol. I pp. 44–45; J.G. van Dillen, *Het oudste aandeelhoudersregister van de Kamer Amsterdam der Oost-Indische Compagnie* (The Hague: Martinus Nijhoff, 1958) pp. 117, 238; *De Hollandse jaren van Hugo de Groot (1583–1621)* ed. H.J.M. Nellen and J. Trapman (Hilversum: Verloren Publishers, 1996) pp. 161–77; *Nieuw Nederlands Biografisch Woordenboek* ed. P.C. Molhuysen and P.J. Blok 10 vols. (Leiden, 1911–1937) Vol. I p. 997; Margreet J.A.M. Ahsmann, *Collegia en Colleges: Juridisch onderwijs aan de Leidse Universiteit, 1575–1630, in het bijzonder het disputeren* (Groningen, 1990) p. 506; Coolhaas, 'Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*,' pp. 422–23.

English translations of the resolution of the Estates of Holland of 1 Sept. 1604, the verdict of the Admiralty judges of 9 Sept. 1604, and Jan ten Grootenhuys' letters to Grotius of 15 and 20 Oct. 1604 are forthcoming in Grotius, *Commentary on the Law of Prize and Booty*, ed. Van Ittersum.

The audience which the VOC directors may have had in mind for *De Jure Praedae* consisted of the likes of a) the Kings of France and England, whose diplomatic support (or at least tacit consent) was needed for a successful privateering campaign against Iberian shipping in the East Indies and b) the Estates of Utrecht, Overijssel, Gelderland, Friesland and Groningen, which envied the enormous profits of the Holland and Zeeland trading companies and could block legislation in the Dutch Estates General that favored the VOC.²⁵

Had it been up to the VOC directors, the format of Grotius' *apologia* would have been that of a historical narrative pure and simple. Their choice of Grotius was a no-brainer. The Delft prodigy had been appointed historiographer of Holland three years earlier. The directors made a serious effort to provide him with all the materials necessary for a detailed historical reconstruction of the early Dutch voyages to the East Indies. Within days of the verdict's announcement, they were busy taking down sworn statements from their captains, merchants and sailors. It took some time to get the "Indian reports" ready, so Grootenhuys noted in his letter of 15 October, largely because the directors insisted that the fifteen attestations be "confirmed under oath." The Delft notary Willem Willemszoon Kieck made copies between 7 and 12 October 1604, which were bound together in one volume. Grootenhuys mailed it to Grotius three days later, with the following explanation:

You will clearly understand from them what the Portuguese have attempted against each of the voyages for the purpose of destroying our men. In addition, you will derive from them countless proofs of perfidy, tyranny and hostility suitable to your apology.

Grootenhuys noted with pleasure that Grotius had already started working on his defense of the *Santa Catarina*'s capture. At the directors' behest, he urged him to complete "in a short while" the treatise that he had begun "so felicitously."²⁶

²⁵ *Briefwisseling van Hugo Grotius* Vol. I p. 44; Hans den Haan, *Moedernegotie en grote vaart: een studie over de expansie van het Hollandse handelskapitaal in de 16e en 17e eeuw* (Amsterdam: SUA, 1977) pp. 158–171; chapters 4 and 5 below.

²⁶ *Briefwisseling van Hugo Grotius* Vol. I p. 44; Jan Waszink, 'Tacitisme in Holland: de *Annales et Historiae de Rebus Belgicis* van Hugo de Groot', *De Zeventiende Eeuw* 20 (2004) pp. 240–263.

In accordance with the directors' wishes, Grotius quickly wrote the *historica* section of *De Jure Praedae* and probably completed it in the winter of 1604/05. At some point he must have decided, however, that "certain problems bound up with the law of war" had been "hitherto exceedingly confused" and demanded "explanation and solution." It cannot be emphasized enough that the manuscript's *dogmatica de jure praedae* were written last, **not** first. The evidence is admittedly circumstantial, but nonetheless convincing. Grotius could hardly have started his ten chapters of legal theory before completing his *Commentarius in Theses XI*, an unpublished manuscript that justified the sovereignty of the Estates of Holland with ample references to natural law and natural rights. Judging by Grotius' correspondence with his Leiden friends Daniel Heinsius and Dominicus Baudius, he was busy writing the *Commentarius in Theses XI* until December 1604 at least. It also introduced him to the works of sixteenth century Spanish theologians and jurists like Francisco de Vitoria, Balthasar Ayala, Diego de Covarrubias and Ferdinando Vazquez. This had significant implications for Grotius' argument in *De Jure Praedae*. Grotius untangled the various legal principles that had been jumbled together in the verdict of the Amsterdam Admiralty Court by means of selective quotations from Spanish humanists and scholastics. Yet the ten chapters of legal theory did not bear on the case of the *Santa Catarina* as such. The practical consequences of

As Robert Fruin already pointed out, the VOC directors were well aware of Grotius' growing reputation as a historian. The *Gentlemen XVII* admitted as much in their meeting of 16 September 1610. When they contemplated commissioning a history of the East Indies trade "for the honor and reputation of the same and of the fatherland," they immediately thought of Grotius as the person most qualified to undertake this task. Compare Dutch National Archives, VOC 100 f. 108 and Fruin, 'An Unpublished Work of Hugo Grotius', p. 47.

Grotius may well have written a history of the East Indies trade, based on chapter 11 of *De Jure Praedae*. In September 1615, the Amsterdam VOC directors ordered the Company lawyer Tobias de Coene to track down the "book written by Mr. Grotius about the beginnings of the East Indian troubles," along with other "writings about the Company." He was told to retrieve these from "burgomaster [Reinier] Pauw" or the widows and children of "deceased VOC directors." The catalogue of the famous Martinus Nijhoff auction in 1864 did indeed list a 48-page manuscript of Grotius as *De bello Batavorum cum Lusitanis, imprimis de rebus per Indiam gestis dissertatio*. According to the compilers of the catalogue, it was either a draft or a neat copy of chapter 11 in *De Jure Praedae*. Compare Dutch National Archives, VOC 227 p. 240 and *Catalogue des Manuscrits Autographes de Hugo Grotius* (The Hague: Martinus Nijhoff, 1864) p. 5.

Grotius' *dogmatica de jure praedae* only became clear in two chapters on "justice" inserted right after the *historica* section of *De Jure Praedae*. Van Heemskerck's capture of the Portuguese merchantman was justified as an act of private war in chapter 12 of *De Jure Praedae*—otherwise known as *Mare Liberum*—and as an act of public war in chapter 13.²⁷

Predictably, chapter 13 of *De Jure Praedae* focused on the commission that Van Heemskerck had received from Maurice of Nassau, Lord High Admiral of Holland. Grotius argued that by virtue of his commission Van Heemskerck had been an agent of the Dutch Republic, a sovereign and independent state. As an agent of the United Provinces, the commander was required to follow the Dutch Estates General's directives for the conduct of its public war against Philip III of Spain. (The VOC directors were in charge of trade, obviously.) It so happened that the Dutch Estates General's placard of 2 April 1599 declared the possessions of the subjects of Philip III good prize, without any restrictions as to the place and time of seizure. The Estates of Holland had further clarified this placard on 1 September 1604, when it relinquished all claims to the *Santa Catarina* and any future VOC prizes in favor of the Dutch Estates General and the Admiralty Board. It remained for Grotius to conclude that the Amsterdam Admiralty Court had simply executed the Dutch Estates General's policies on naval warfare and privateering when it declared the *Santa Catarina* good prize and divided the booty between, on the one hand, the Admiralty Board, which took 23%, and, on the other, Van Heemskerck and his crew (10.4%) and, of course, the VOC directors (in their capacity as administrators of the affairs of the defunct United Amsterdam Company).²⁸

²⁷ *Briefwisseling van Hugo Grotius* vol. I p. 72.

An English translation of (part of) Grotius' letter to G.M. Lingelsheim is forthcoming in Grotius, *Commentary on the Law of Prize and Booty*, ed. Van Ittersum. I discuss the composition dates of *De Jure Praedae* and *Commentarius in Theses XI* in the appendices of my article in the *Asian Journal of Social Science*. I hope to publish more on the dating of *De Jure Praedae* and several other early works of Grotius in a short while. Compare Martine Julia van Ittersum, 'Hugo Grotius in Context: Van Heemskerck's Capture of the Santa Catarina and its Justification in De Jure Praedae (1604–1606)', *Asian Journal of Social Science* 31 (2003) pp. 511–548, particularly pp. 525, 542–545.

²⁸ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 80, 84, 283–317, 366; Peter Borschberg, *Hugo Grotius' Commentarius in Theses XI: An Early Treatise on Sovereignty, the Just War, and the Legitimacy of the Dutch Revolt* (Berne: Peter Lang, 1994) pp. 269–83; Victor Enthoven, *Zeeland en de opkomst van de Republiek: Handel en Strijd in de Scheldedelta, ca. 1550–1621* (Leiden, 1996) pp. 207–209.

The argument of chapter 12 of *De Jure Praedae*, otherwise known as *Mare Liberum*, could not have been more different. In justifying the carrack's capture as an act of private war, it was absolutely essential for Grotius to prove that Van Heemskerck had fought for a just cause and implemented natural justice. He first reminded his readers of the atrocities which the Portuguese had committed against Dutch merchants and their indigenous trading partners and then denounced these outrages as gross transgressions of natural law, particularly the law of inoffensiveness and freedom of trade and navigation. This was a major innovation in legal theory and practice, certainly as compared to the resolution of the Broad Council and the verdict of the Amsterdam Admiralty Court. Neither document identified natural rights and natural law as the underlying legal principle that justified Van Heemskerck's attack on Portuguese shipping. It was Grotius who established this connection. He made an equally important change in the implementation of natural law, which had hitherto been considered the preserve of monarchs and princes. Grotius argued instead that, in the absence of an independent judge, a private individual like Van Heemskerck could punish transgressors of the natural law and act as judge and executioner in his own cause. This conclusion was entirely consistent with Grotius' understanding of sovereignty. All magistrates, including heads of states, were simply bearers of the marks of sovereignty (judiciary, taxation, defense and so forth). As ruler of the Low Countries, Philip II had never been an absolute sovereign, for example, but exercised a number of powers that were ultimately derived from the Dutch commonwealth or *respublica* and, more specifically, from each and every Dutch citizen. A private individual could reclaim these powers and exercise them in person under certain circumstances, when it was difficult or altogether impossible for him to have recourse to an independent or effective judge, such as on the high seas, in times of armed conflict and so forth. Grotius' understanding of sovereignty had important implications for his defense of VOC privateering. What had been revenge pure and simple in the resolution of the Broad Council became punishment for transgressions of the natural

The VOC directors sent Grotius a notarized copy, already prepared in July 1604, of the exact text of the commission that Maurice of Nassau had granted to Pieter Diericx, Captain of the *White Lion*, on 6 November 1600. Compare Dutch National Archives, Supplement I, fol. 434–437.

law in *De Jure Praedae*, meted out by private individuals exercising their natural rights. Yet just punishment and lawless revenge were more closely linked in *De Jure Praedae* than its author cared to admit. When he listed the various natural laws in his introduction—the so-called *Prolegomena*—Grotius defined two of them as follows: “evil deeds must be corrected” (*malefacta corrigenda*) and “good deeds must be recompensed” (*benefacta repensanda*). Yet his original formulation, still visible on folio 7 verso of the manuscript, is quite different: “evil should be done to the evil-doer” (*malefacienti maleficiendum*), while “good should be done to the righteous” (*benefacienti beneficiendum*).²⁹

1.4 *The Capture of the Santa Catarina*

Grotius’ innovations in legal theory and practice were still far in the future, however, when the *Alkmaar* and *White Lion* anchored off Pulau Tiuman in order to intercept the Japan carrack. A small Portuguese vessel from Cochin China was sighted to the windward of the Dutch ships on 18 December 1602 and captured without further ado. After unloading its cargo, the prize was refitted as a yacht and incorporated into the Dutch squadron.³⁰

Meanwhile Van Heemskerck flattered himself with the thought that “the bird that we hoped for would not escape us”—his men kept sentinel day and night at Pulau Tiuman. He was confirmed in his opinion by the news that he received from the traders of Pahang, a port just north of Johore. These merchants passed by Pulau Tiuman each day and assured him every time that no ships from Macao had arrived at Malacca yet. They even suggested that the *capitão-mór* of Malacca, “aware of the fact that we were lying in wait for the ships,” had already lost his nerve and declared that “the carrack was no longer his, but belonged to the Hollanders.” Van Heemskerck obtained even more encouraging intelligence from Mattys d’Olivera, born in

²⁹ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 10, 13, 18, 23, 25, 27, 28, 87–95, 216–82 and Vol. II: 7r–v; Borschberg, *Hugo Grotius’ Commentarius in Theses XI* pp. 244–45; Borschberg, ‘Grotius and the Social Contract Theory: A Preliminary Study of the Unpublished Theses LVI’, read at the Department of Politics and International Relations, Rutherford College, University of Kent at Canterbury on December 4, 1998.

³⁰ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603).

the German port of Hamburg. He was a crew member of the junk that had been captured *en route* from Cochin China. The prisoner claimed to have made his way from Goa to Malacca in the carrack of the *capitão-mór*, allegedly accompanied by an even bigger, brand-new *náo do trato* or “great ship of commerce.” He was confident that both carracks would soon return to Malacca. In the long history of the Japan voyage it had simply never happened that carracks bound for Goa spent the winter at Macao.³¹

Buoyed by these congenial reports, the Broad Council gave some thought to new opportunities for trade at Johore and Patani. The junk from Cochin China had yielded rice, specie, textiles and aloes, which was worth a small fortune. Van Heemskerck reckoned that these commodities would be in heavy demand at Johore and that he could use the proceeds to buy pepper at both Johore and Patani. There would be no harm, then, in extending the resolution of 4 December 1602 for yet another month. The prospects for trade and privateering in the waters off the Malay Peninsula clearly justified a longer stay at Pulau Tioman.³²

Renewed contact with the Sultan of Johore changed everything, however. When the Sultan was informed of Van Heemskerck's location—a Johore trader had sighted the Dutch squadron—he immediately dispatched a Johorese nobleman to Pulau Tioman. Upon his arrival there, the envoy presented Van Heemskerck with a golden kris and a graceful message from his sovereign. The Sultan expressed his gratitude for the letters and presents that Van Heemskerck had sent him from Grisse and Patani and for the honourable reception that his younger brother had enjoyed aboard the *White Lion*. Even so, the ruler could not conceal his disappointment at the commander's failure to call at his port. Yet he was smart enough to blame the Grisse pilot on whose expertise Van Heemskerck had relied in navigating from Java to the Malay Peninsula. Naturally, the Sultan desired the carracks' capture as much as Van Heemskerck did, but doubted that Pulau Tioman was the right place to intercept them. The island might well be given a wide berth if the carracks' commander

³¹ *Ibidem*; Charles R. Boxer, *Fidalgos in the Far East, 1550–1770* (second edition, The Hague: Martinus Nijhoff, 1948, reprinted London: Oxford UP, 1968) pp. 12–28.

³² Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603).

learnt of his anchorage there. Instead, he should take up position at the mouth of Johore River, where the carracks could not pass by unnoticed, be it night or day. Due to treacherous wind and water currents, the carracks were forced to sail very close to the shore of Johore as they entered Singapore Straits from the east.³³

There was another reason why the Sultan of Johore urged Van Heemskerck to change his plans. The Sultan had declared war on Malacca three months earlier, in response to “certain wrongs” which his subjects had suffered at the hands of the Portuguese, besides “many ancient grievances” and “new outrages” for which he held them responsible. He felt it keenly that the Portuguese had treated him and his subjects as “little more than dogs.” The *capitão-mór* of Malacca, who was aware of his correspondence with Van Heemskerck, had strongly objected to his courting of the Dutch. The Portuguese commander had suggested that the Dutch were “all thieves” and that Van Heemskerck might first spy on him “under the pretext of friendship” and then return with a big fleet to pillage Johore. The ruler had been presented with a stark choice: break off all contact with the Dutch or be treated as an enemy of the Portuguese. Yet he assured Van Heemskerck that he had rebuffed the *capitão-mór* with an equally sharp reply. He had informed the *capitão-mór* that he had never heard anything bad about the Dutch, who “traded with the indigenous peoples in great friendship wherever they went.” Who did the Portuguese think they were? If anything, obedience was due to him. The Portuguese were “sitting in his land” and illegally occupied Malacca, which had once been ruled by his forefathers. The defiant reply had not gone down well with the *capitão-mór*. A squadron of seven warships had been sent to Johore Head in order to safeguard the carracks *en route* from Macao. While awaiting their arrival, the Portuguese convoy had blockaded Johore River and committed many outrages. The Sultan realised that only Van Heemskerck was capable of breaking the naval blockade and begged him to do so. A defeat of the Portuguese squadron would make Van Heemskerck

³³ Ibidem; Peter Borschberg, ‘Remapping the Straits of Singapore? New Insights from Old Sources’, *Iberians in the Singapore-Melaka Area (16th to 18th century)*, South China and Maritime Asia Vol. 14 (Wiesbaden: Harrassowitz Verlag, 2004) pp. 93–130, particularly pp. 107–116; Pierre Yves Manguin, *Les Portugais sur les côtes du Vietnam et du Campa: étude sur les routes maritimes et les relations commerciales, d’après les sources portugaises (XVI^e, XVII^e, XVIII^e siècles)* (Paris, 1972) pp. 65–152 and map no. 1.

famous all over the East Indies. Indeed, the ruler considered Van Heemskerck's victory a foregone conclusion for "the Portuguese tremble at your name." He repeated that the carracks were certain to pass by the river mouth and concluded with "sundry other praises of our prince and nation, which are too long to repeat here," so Van Heemskerck wrote to the directors of the United Amsterdam Company.³⁴

Van Heemskerck hardly knew what to make of the Sultan's letter. Any war between Johore and Malacca was bound to be detrimental to the Portuguese, certainly if, in future, Dutch ships should call at Johore year round, as they did at Bantam. Hence the *capitão-mór* had every reason to cultivate the Sultan and promise him both the moon and the earth. Van Heemskerck smelled a rat: the Sultan might well have shown "friendship in appearance only" in order to revenge himself for the Johorese junk captured at Jortan. Or was it all a Portuguese ploy? Could the Sultan's letter be a ruse to lure Van Heemskerck away from Pulau Tioman and towards the lee shore of Johore, where the ruler of Pahang, undoubtedly bribed by the Portuguese, might attack the Dutch ships with his prows? After careful consideration, Van Heemskerck was inclined to trust the Sultan. There was hardly an indigenous ruler left who did not resent the Portuguese for their insufferable arrogance. In addition, the Sultan had much to gain from a trade agreement with the Dutch. Van Heemskerck was not prepared, however, to leave Pulau Tioman as yet. Should the carracks arrive at Pulau Tioman after his departure, then the islanders would undoubtedly reveal his new location to the Portuguese commander, who, in turn, could decide to postpone the last leg of the journey to Malacca or change course entirely to avoid

³⁴ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603); Coolhaas, 'Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*,' p. 528; *Aziatische omzwervingen* ed. Verberckmoes and Stols pp. 105–108; Peter Borschberg, 'Grotius, East India Trade and the King of Johor', *Journal for Southeast Asian Studies* 30 (1999) pp. 225–248, particularly pp. 230–231; Borschberg, 'The Seizure of the Sta. Catarina Revisited: The Portuguese Empire in Asia, VOC Politics and the Origins of the Dutch-Johor Alliance (c. 1602–1616)', *Journal for Southeast Asian Studies* 33 (2002) pp. 31–62, particularly pp. 44–46; Borschberg, 'Luso-Johor-Dutch Relations in the Straits of Malacca and Singapore, ca. 1600–1623' pp. 16–23; Paulo Jorge de Sousa Pinto, 'Captains, Sultans and liaisons dangereuses: Melaka and Johor in the Late Sixteenth Century' in: *Iberians in the Singapore-Melaka Area (16th to 18th century)*, ed. Peter Borschberg, South China and Maritime Asia Vol. 14 (Wiesbaden: Harrassowitz Verlag, 2004) pp. 131–146.

the Johorese coast. Van Heemskerck nevertheless promised the Sultan's envoy to set sail for Johore within 20 days, provided no carracks were sighted off Pulau Tiومان.³⁵

The Sultan's envoy remained aboard the *White Lion* for a few more days and managed to win the confidence of Van Heemskerck. When the latter expressed a wish to send a personal representative to the Sultan, the Johorese nobleman volunteered to stay behind as a hostage. Pieter Opmeer was entrusted with a letter for the Sultan, wherein Van Heemskerck thanked him for his presents, friendship and faithful advice, but he also explained that the Dutch ships would stay at Pulau Tiومان a little longer. The Dutch commander gave Opmeer secret instructions as well. He was told to keep his eyes and ears open at the Johorese court and write back immediately. Van Heemskerck wanted to find out more about the Sultan's relations with Malacca, Johorese rice prices, the volume of the Sultanate's pepper trade and, of course, the Portuguese naval blockade. The month of January passed without any other noteworthy events. The news from Malacca and Pahang was invariably the same: the carracks had still not arrived, or even been sighted. In these circumstances, the Broad Council had little choice but to extend its resolution yet again, "first for six days, then for four days at the time."³⁶

The long wait came to an end on 18 February, 1603. An inhabitant of Pulau Tiومان told Pauwels that he had seen a great ship with canvas sails pass by the island that morning, tracking a longboat. Yet Pauwels and Van Heemskerck refused to believe his story, which they considered confusing. Both commanders put their faith in the Dutch lookouts instead, which had not sighted any carracks yet. Although the island's chiefs confirmed the news two days later, they were still convinced that it was a ruse to lure them away from Pulau Tiومان. They were forced to change their minds when they received letters from Pieter Opmeer on 22 February, conveyed by a galliot of the Sultan of Johore. The captain of the galliot apprised them of the fact that he had encountered a carrack on the open sea

³⁵ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603); Borschberg, 'Remapping the Straits of Singapore? New Insights from Old Sources' pp. 102–107 and Luso-Johor-Dutch Relations in the Straits of Malacca and Singapore, ca. 1600–1623' pp. 18–25.

³⁶ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603).

just three days earlier, while underway from Johore to Pulau Tioman. Realizing his mistake, Van Heemskerck gave orders to weigh anchor and hoist the sails immediately. It was a race against time to intercept the second carrack, which could not be far behind. There was a distinct possibility that she would stand out to sea like the first carrack, rather than call at the island. When Van Heemskerck reached Johore on 24 February, he was told that the first carrack had passed by the river mouth and entered Singapore Straits just five days earlier. All was not lost, however. Van Heemskerck woke up the following morning with the second carrack—a brand-new ship of 1,500 tons—riding at anchor right in front of him. Thus

we saw with our own eyes that waking up early, keeping a close watch, and running fast availed us nothing without the blessing of the Almighty. He heard our prayers while we were asleep in order that we might not pride ourselves on our own accomplishments.³⁷

The fight began at eight o'clock in the morning and lasted all day. Van Heemskerck ordered his gunners to aim for the carrack's sails, "lest we should destroy our booty with our own guns." Around six o'clock in the evening, Captain Sebastiano Serrao put out a white flag. Its sails all in tatters, the carrack was adrift and in great danger of hitting underwater rocks at the eastern entrance of Singapore Straits. The Portuguese captain sent two representatives aboard the *White Lion* to negotiate terms. Van Heemskerck brooked no opposition, however, and presented them with an ultimatum: surrender within an hour or continue the battle by moonlight, in which case the *Santa Catarina* would be in great danger of being wrecked on the dangerous shoals east of Singapore Island. Serrao had no choice but to back down and agree to Van Heemskerck's conditions. The battle had cost the Portuguese dearly. There were seventy casualties aboard the carrack. The number would have been even higher if the Dutch gunners had taken aim at the ship's upper deck, instead of the sails. As Van Heemskerck noted, "the gunners could hardly have missed considering how many people were aboard the vessel." The Portuguese were lucky to have encountered him at the entrance of Singapore Straits, instead of on the high seas, where "we would have done an ill dance out of revenge for what happened at Macao."

³⁷ Ibidem; C.R. Boxer, *Fidalgos in the Far East, 1550–1770* (second edition, The Hague: Martinus Nijhoff, 1948, reprinted London: Oxford UP, 1968) p. 50.

Van Heemskerck admitted that he had heard rumors of the release of three survivors of the Macao massacre—fiscal Martin Apius and two cabin boys. He remained skeptical, however. “God knows whether it is true or not,” he wrote to the VOC directors. He saw no reason to change his opinion that clipping Portuguese wings was the surest way to make the enemy sing another tone.³⁸

An inventory was made of the carrack’s cargo, which Van Heemskerck sent to the VOC directors. The variety and value of the goods aboard the prize were truly astounding. Yet Van Heemskerck realized that his count fell far short of the figures recorded in the Portuguese freight list. The reason was twofold in his estimation. The carrack’s crew and passengers might well have smuggled out some jewels at disembarkation—female passengers were not frisked “for propriety’s sake,” for example. Nor was the Portuguese freight list terribly accurate to begin with: it contained many items “whereof we have no knowledge and perhaps never will in our lifetime.” The remaining spoils were still beyond anything he could have imagined in his wildest dreams. He decided to transfer the prize goods to his own ships, which would allow him to load the carrack with pepper at Johore and Bantam. The *White Lion* received 1,584 bales of silk, 250 bales of raw silk, 150 barrels of camphor, 540 packs of sugar, 74 chests of silk clothes and aloes and another nine or ten filled with porcelain. The *Alkmaar* took in 1,150 bales of silk, 646 packs of sugar, 226 chests of aloes and silk velour and four barrels of camphor. The total value of these commodities was well over three million Dutch guilders—£300,000 according to the exchange rate at the turn of the 17th century.³⁹

³⁸ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603); *Bijdragen en Mededelingen van het Historisch Genootschap* 6 pp. 237–240.

³⁹ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603); *Corte ende sekere beschrijvinghe van 't veroveren der rijke ende gheuweldige krake, comende wytet gheweste van China, door den Admiraal Jacobus Heemskercke* (Middelburg: Richard Schilders, 1604) f. Alverso; Pieter van Dam, *Beschryvinge van de Oostindische Compagnie* ed. F.W. Stapel en Dr. C.W. Baron van Boetzelaer van Asperen en Dubbeldam 6 vols. (The Hague: Martinus Nijhoff, 1927–1954) Vol. 6 (RGP 87) p. 477; *Aziatische omzweringen* ed. Verberckmoes and Stols p. 108; Enthoven, *Zeeland en de opkomst van de Republiek* pp. 207–208; Borschberg, ‘The Seizure of the Sta. Catarina Revisited: The Portuguese Empire in Asia, VOC Politics and the Origins of the Dutch-Johor Alliance (c. 1602–1616)’ pp. 36–48, 50–53, 57–58.

Van Heemskerck wrote to the VOC directors that he had retrieved 138 bars of solid gold from the carrack as well. Unfortunately, it was too early in the season to purchase large quantities of pepper at Johore. The imminent change in the monsoon winds made Van Heemskerck impatient to continue his voyage to Bantam, where he could barter the ingots for pepper. He was forced to postpone his departure until 3 April, however, due to delays in freighting the carrack and, more importantly, due to political complications that resulted from its seizure and his own alliance with the Sultan of Johore.⁴⁰

Sebastiano Serrao had surrendered his ship to Van Heemskerck in the understanding that he would give its passengers and crew a safe passage to Malacca. Van Heemskerck proved to be as good as his word. He realized that his seven hundred and fifty Portuguese prisoners were in great danger of being killed by his Malayan allies unless his own men accompanied them to Malacca. The first batch of prisoners arrived safely in Malacca shortly before 9 March 1603.

There are a number of possibilities that explain the deficiency between the Portuguese freight list and Van Heemskerck's own inventory of the *Santa Catarina's* cargo. The Portuguese freight list might have been unreliable to start with, and goods could have been destroyed in battle. Van Heemskerck himself suspected that the carrack's passengers and crew managed to take some of their belongings with them at disembarkation. (Diamonds and other precious stones were usually sown into a merchant's clothing, for example.) Yet it is entirely feasible that Van Heemskerck's inventory excludes the goods appropriated by himself and his crew, something which he conveniently forgot to mention in his correspondence.

In accordance with its resolution of 4 December 1602, the Broad Council gave permission to the sailors of the *White Lion* and *Alkmaar* to plunder the personal possessions of their Portuguese counterparts if they managed to seize a carrack. The Broad Council also promised them a percentage of the booty equal to what Dutch navy crews received if they captured an enemy ship. The sailors of the *White Lion* and *Alkmaar* insisted on having their share of the spoils before their arrival in Holland, however. The prize goods were at least divided twice among Van Heemskerck and his men, once at Bantam and once at the island of St Helena, which may have cost the VOC approximately 90,000 Dutch guilders. Not surprisingly, the Company directors accused Van Heemskerck and Pauwels of embezzlement soon after their return to Amsterdam. According to the directors' notarized statement, 3,000 guilders worth of booty had been found in the trunks of Van Heemskerck and his second-in-command. Compare Dutch National Archives, *SG 12551.21, Loketkas processen nr. 21*, unfoliated (notarized extracts from the minute book of the Broad Council, marked with a Q and the dates of 6 and 24 May 1605, respectively, and 'Deduction and Reasons of Defence', prepared by the VOC directors, articles xv, xvi, xlii, xliii).

⁴⁰ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603).

The four Dutch mariners who had served as their guards did not enter Malacca, but stayed behind at an island situated right in front of the port, where they received a letter from the *capitão-mór* and provisions from the Malacca magistrates.⁴¹

In his letter of 9 March 1603, Fernão de Albuquerque congratulated Van Heemskerck on encountering “a ship so richly laden” and capturing it “in a just war.” Yet the *capitão-mór* doubted that Van Heemskerck would have been victorious if he had attacked the first carrack, which did not carry any “merchants, who do not fight,” or “women and other useless people, who are in the way in times of difficulty.” Nor did the *capitão-mór* consider the massacre at Macao a sufficient reason for Van Heemskerck to take revenge on the Portuguese. To be sure, he unequivocally condemned the execution of seventeen members of Van Neck’s crew. The Portuguese authorities had not left the Dutch without legal recourse, however. The man responsible for the judicial murder—the *ouvidor* or royal judge of Macao—was already languishing in prison himself and would soon be put to death. The *capitão-mór* emphasized that he had been a “good friend” to the three survivors of the massacre—fiscal Martin Apius and two cabin boys—when they passed through Malacca on their way to Goa. He expected Van Heemskerck to return the favor by releasing the Portuguese prisoners who were still in Johore, especially “father Antonio” and the carrack’s captain. In addition, he asked Van Heemskerck to intercede with the Sultan of Johore for the crew of a Portuguese junk that had been captured by the “Malayans” *en route* from Macao to Malacca.⁴²

Van Heemskerck complied with the former request, but not with the latter. Although he kept his promise to release all the carrack’s crew and passengers, he refused to endanger his alliance with the Sultan of Johore by interceding for any captives who were in the ruler’s power. The second batch of Portuguese prisoners arrived at

⁴¹ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603); Coolhaas, ‘Een bron van het historische gedeelte van Hugo de Groot’s *De Jure Praedae*,’ pp. 531–33; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 385–386.

⁴² Coolhaas, ‘Een bron van het historische gedeelte van Hugo de Groot’s *De Jure Praedae*,’ pp. 531–533; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 385–386; *Aziatische omzwervingen* ed. Verberckmoes and Stols pp. 99, 105–108; Borschberg, ‘The Seizure of the Sta. Catarina Revisited: The Portuguese Empire in Asia, VOC Politics and the Origins of the Dutch-Johor Alliance (c. 1602–1616)’ pp. 48–49.

Malacca shortly before 24 March 1603, again accompanied by Dutch guards, who must also have carried with them Van Heemskerck's reply to the *capitão-mór*. They stayed behind on the island facing Malacca in order to wait for an answer.⁴³

Fernão de Albuquerque did not disappoint them. In his letter of 26 March 1603, the *capitão-mór* expressed his gratitude for Van Heemskerck's gracious reply and for the release of the carrack's passengers and crew. He assured Van Heemskerck that the Viceroy at Goa would be lenient to all Dutch prisoners "in the Indies and Japan" and severely punish the *ouvidor* of Macao. "Your Honor should not, therefore, take offence at the Portuguese in general for everyone of us believes that what happened in China was a bad thing." Once again, Van Heemskerck was asked to intercede with the Sultan on behalf of the junk's captive crew. The *capitão-mór* put his faith in "the zeal shown by Your Honor in caring for all prisoners and oppressed Christians." The junk's cargo was of no concern to him. There was little hope of retrieving it from the Sultan, who, presumably, had divided the spoils among "the soldiers of his *armada*." Yet Albuquerque was anxious about the fate of "the Portuguese and Christians whom [the Sultan] keeps imprisoned under the pretext of peace." He hoped against hope that the prisoners were "of little importance to the Malaysans" and sent two envoys—Philippe Lobo and Pedro Mascarenhas—to negotiate their release. Van Heemskerck should take the envoys in his protection and grant them "Your Honor's favor and assistance."⁴⁴

Martin Apius was released in Goa in April 1602 and took passage to Lisbon nine months later. He arrived in Bayonne in Sept. 1603 and received permission from Philip III to return to the Dutch Republic. Compare *Bijdragen en Mededelingen van het Historisch Genootschap* 6 pp. 239–242.

English translations of the letters of Fernão de Albuquerque and the municipal councilors of Malacca are forthcoming in Grotius, *Commentary on the Law of Prize and Booty*, ed. Van Ittersum.

⁴³ Coolhaas, 'Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*,' pp. 533–534; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 386–387; Borschberg, 'The Seizure of the Sta. Catarina Revisited: The Portuguese Empire in Asia, VOC Politics and the Origins of the Dutch-Johor Alliance (c. 1602–1616)' p. 49.

⁴⁴ Coolhaas, 'Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*,' pp. 533–534; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 386–387; *Aziatische omzwervingen* ed. Verberckmoes and Stols pp. 99, 105–108; Borschberg, 'The Seizure of the Sta. Catarina Revisited: The Portuguese Empire in Asia, VOC Politics and the Origins of the Dutch-Johor Alliance (c. 1602–1616)' p. 49.

Van Heemskerck did nothing of the sort. He maintained an ominous silence in his letter to the directors of the United Amsterdam Company of 27 August 1603. Perhaps the Sultan's prisoners were no longer alive. Van Heemskerck intimated in his letter that Johorese troops would certainly have killed the carrack's passengers and crew, for example, if his men had let them. It seems more likely, however, that the Dutch commander decided not to meddle in the affair and keep his distance from the Portuguese envoys. He knew that he would gain nothing by siding with Albuquerque against his new-found ally, the Sultan of Johore. His priority was, in fact, to fan the flames of enmity between them. Meanwhile, he sought to establish a commercial partnership and military and political alliance between the Dutch Republic and the Sultanate.⁴⁵

Van Heemskerck's capture of the *Santa Catarina* had served to strengthen his ties with the Sultan of Johore and his brother, Raja Bongsu. The royal siblings had not just supplied him with important information about the carrack's itinerary, but joined in the naval battle as well. The galleys and rowing-yachts that made up the Johorese *armada* had been of invaluable assistance to Van Heemskerck. The Sultan, Raja Bongsu, and the Johorese nobility had watched the engagement aboard his flagship. The Sultan was rewarded for his services with a consignment of rice, along with some silk velour, gold and silver. The total value of these presents was approximately 10,000 Dutch guilders. In addition, Van Heemskerck asked, and was granted, permission to reimburse the captain of the Johorese junk seized in Japara harbor. The captain received 1,200 Spanish silver pieces in damages, "even though the cargo did not sell for more than 700 reals of eight." Nor could Van Heemskerck leave Johore without establishing a Dutch factory. At the Sultan's request, senior merchant Jacob Buys was appointed as the head of the new trading mission, assisted by three sailors and two midshipmen. In return, the Sultan showered Van Heemskerck with gifts, provided him with a letter for Prince Maurice and appointed an ambassador—"a nimble,

⁴⁵ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603); *Aziatische omzwevingen* ed. Verberckmoes and Stols pp. 105–108; Borschberg, "The Seizure of the Sta. Catarina Revisited: The Portuguese Empire in Asia, VOC Politics and the Origins of the Dutch-Johor Alliance (c. 1602–1616)" pp. 58–62.

competent young man, belonging to the Sultan's inner circle"—to travel with him to Holland, accompanied by an entourage of servants.⁴⁶

Van Heemskerck gave his consent to the embassy because he had big plans for Johore. In his view, the VOC needed a rendezvous in the East Indies other than the port of Bantam, which was badly governed—"the king is but a child"—and notorious for its high taxes. The optimal solution was to capture Malacca. Its stone houses and walls were not susceptible to the great fires that destroyed Bantam's trading quarter every so often. "Truly, it is high time we make the Portuguese move from Malacca to Ceylon." The second best option was to establish a rendezvous at Johore, which would put Malacca under a kind of permanent siege. The newly-founded VOC could break the Portuguese stranglehold on the China and Japan trade by stationing warships at the mouth of Johore River. What Van Heemskerck had in mind was a year-round cruiser squadron that would intercept all carracks entering or leaving Singapore Straits. He urged the VOC directors to give serious thought to the China trade as well. The Portuguese, for one, reaped large profits by exporting Chinese goods to India. Textiles from the Coromandel Coast could be bartered for pepper in Johore and Patani, where Indian textiles were in heavy demand. Van Heemskerck considered Johore to be ideally situated in this regard and advocated the establishment of direct trade links with the Indian subcontinent. The inhabitants of Johore and Patani had urged him not to bring anymore silver, but to arrange for textile imports from the Coromandel Coast instead, saying "we do not wear silver pieces around our necks, nor can we cover ourselves with them." As the port master of Patani put it, "bring us textiles and we will all declare war on the Portuguese."

⁴⁶ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603); Francois Valentijn, *Oud en nieuw Oost-Indien, vervattende een naukeurige en uitvoerige verhandeling van Nederlands mogentheid in die gewesten* 5 books in 8 volumes (Dordrecht: J. van Braam, 1724–26) Vol. V p. 328; Van Dam, *Beschryvinge van de Oostindische Compagnie* Vol. I, part II, p. 309; Borschberg, 'The Seizure of the Sta. Catarina Revisited: The Portuguese Empire in Asia, VOC Politics and the Origins of the Dutch-Johor Alliance (c. 1602–1616)' pp. 47–48.

Reals of eight, also known as Spanish dollars or pieces of eight, were Spanish silver coins used for commercial transactions in both the East and West Indies. A real was worth approximately 2 1/2 Dutch guilders or 0.25 pounds sterling (according to the seventeenth century exchange rate.)

The triple alliance of Johore, Patani and the VOC contemplated by Van Heemskerck would not consist of commercial agreements alone. In his view, the VOC should assume the leadership of a grand coalition of Asian states and lead it into battle against the *Estado da India*. He urged the VOC directors to create Dutch settlements in the East Indies as part of this anti-Portuguese crusade and pointed out that

since the Almighty has blessed our East Indies trade immeasurably, and let us become friends with so many different nations and kings in so short a time span, we should not pass up the present opportunity. Instead, we must do our utmost to settle our nation in the East Indies and establish both a spiritual and political commonwealth, placing our hope in God, who will let it blossom and bloom.

Van Heemskerck considered the spectacular increase in trade and navigation, not to mention “the friendship of the inhabitants,” to be the handiwork of the Almighty. In true Calvinist fashion, he argued that these divine blessings obliged the Dutch to do their bit as well. His colonization project was never meant to be just another profitable investment or simply the projection of Dutch power overseas. Van Heemskerck exhibited a distinctly messianic fervor:

Oh, may God’s glory be exalted among so many different nations, peoples and countries by means of the true protestant religion. Perhaps the Lord will use a small, despised country and nation to work His mighty miracles.⁴⁷

Van Heemskerck’s blueprint for empire had much in common with the proposals made by several VOC commanders in the 1600s and 1610s, especially those of Cornelis Matelief Jr. and Jan Pieterszoon

⁴⁷ Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603); *De Eerste Landvoogd Pieter Both (1568–1615)* ed. P.J.A.N. Rietbergen, 2 vols. (Zutphen: Walburg Publishers, 1987) pp. 197–200; *Jan Pieterszoon Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. H.T. Colenbrander and W. Ph. Coolhaas 7 vols. (The Hague: Martinus Nijhoff, 1919–1952) pp. 459, 465–466; *De Opkomst van het Nederlandsch Gezag in Oost-Indië* ed. De Jonge Vol. III pp. 217–218, 233–235, 242–244; Peter Borschberg, ‘A Luso-Dutch Naval Confrontation in the Johor River Delta, 1603’, *Zeitschrift der Deutschen Morgenländischen Gesellschaft* 153 (2003) pp. 157–175; Borschberg, ‘Portuguese, Spanish and Dutch Plans to Construct a Fort in the Straits of Singapore, ca. 1584–1625’, *Archipel* 65 (2003) pp. 55–88; Borschberg, ‘Security, VOC Penetration and Luso-Spanish Co-operation: The Armada of Philippine Governor Juan de Silva in the Straits of Singapore, 1616’ in: *Iberians in the Singapore-Melaka Area (16th to 18th century)*, ed. Peter Borschberg, South China and Maritime Asia Vol. 14 (Wiesbaden: Harrassowitz Verlag, 2004) pp. 35–62.

Coen. Yet the evangelical overtones of his colonization project would not have been acceptable to Grotius, who wished to ground the Dutch empire of trade in natural law, rather than the politics of grace. This was where the visionary privateer and his equally imaginative chronicler and apologist parted company at last.

1.5 *The Natural Right to Punish in Private and Public Wars*

Grotius did, however, share Van Heemskerck's conviction that the seizure of the *Santa Catarina* heralded a brave new world wherein the VOC championed the rights of indigenous peoples and protected them against the Portuguese. "How joyful was the King of Johore when he stood—secure and avenged at last—upon the thwarts of the captured carrack!" *De Jure Praedae* sanitized Dutch colonialism and imperialism in a very real sense. It promised Grotius' compatriots the best of both worlds. An empire of trade could be had on the cheap in the East Indies—a few warships should be sufficient to triumph over the Iberian *armadas*, while it steered clear of the moral degradation to which the Spanish had fallen prey in the Americas, provided, of course, that the Dutch allied themselves with Asian princes and peoples and liberated them from the tyrannical Portuguese. It was a powerful ideology, readily accepted by the VOC directors. It was not until the end of the Twelve Years' Truce (1609–1621) that the alluring self-image which Grotius had created for the Company began to lose its magic.⁴⁸

Yet there was always a certain tension between these grand ideals and the situation on the ground in the East Indies. Grotius' reconstruction of the capture of the *Santa Catarina* left out a number of key facts, for example. This was partly for lack of information. He never realized, for example, that Van Heemskerck had bestowed presents worth 10,000 Dutch guilders on the Sultan of Johore out of gratitude for the valuable assistance rendered by the Johorese naval forces. His closing argument in chapter 13 of *De Jure Praedae* has a rather strange twist to it. Both Van Heemskerck and the Sultan of Johore would have been surprised to learn that the ruler had possessed

⁴⁸ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 333; chapters 2, 4, 5 and 6 below.

the *Santa Catarina* by natural right and granted it to the commander through an act of cession. Yet the jurist's unfamiliarity with some aspects of Van Heemskerck's voyage is only half the story. He certainly had no qualms about omitting evidence that contradicted his line of reasoning. One inconvenient detail known to him, but passed over in *De Jure Praedae*, was the assurances which Albuquerque gave to Van Heemskerck that Dutch prisoners had been treated well at his orders and that the *ouvidor* of Macao would receive condign punishment. Although he listed Albuquerque's letters on the last folio of the manuscript, Grotius failed to mention any of this. It was a significant 'oversight' in the context of his argument.⁴⁹

As noted earlier, Grotius gave private individuals the right to punish transgressors of the natural law if they could not have recourse to an independent and effective judge in a timely fashion. The *Santa Catarina* had been captured as a measure of last resort, in order to revenge Portuguese outrages against Dutch merchants and their indigenous trading partners. When Grotius put this construction on the events in the East Indies, he deliberately ignored certain aspects of Van Heemskerck's correspondence with the Portuguese authorities in Malacca. Judging by Albuquerque's letters, the *Estado da Índia* was not devoid of upstanding magistrates who sought to administer justice impartially. The *capitão-mór* told the truth when he informed Van Heemskerck that the Viceroy at Goa had pardoned and released the three survivors of the Macao massacre, something which even Grotius had to admit in chapter 11 of *De Jure Praedae*. Indeed, he

⁴⁹ Dutch National Archives, *SG 12551.21, Loketkas processen nr. 21*, unfoliated (Van Heemskerck to the United Amsterdam Company, 27 Aug. 1603; Van Heemskerck's reply to 'Deduction and Reasons of Defence' of the VOC directors, signed by the solicitor P. van Veen, articles cxi–cxix); Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 316, 366.

Grotius had access to a variety of sources on Van Heemskerck's voyage and the capture of the *Santa Catarina*. The following are still extant today: 'Discours and Advertisement', the verdict of the Amsterdam Admiralty Court of 9 Sept. 1604, Van Heemskerck's deposition of 4 Oct. 1604, along with copies of his correspondence with the authorities in Malacca. Grotius must also have seen Van Heemskerck's own personal journal, which was placed at his disposal. Such is clear from his reading notes (fol. 335–336, 420–421) in Supplement I of the Grotius Papers at the Dutch National Archives. Since Van Heemskerck's journal does not survive, it is impossible to say whether it mentioned the consignment of rice which the Sultan of Johore received from Van Heemskerck. If it did, then Grotius' suggestion in chapter 13 of *De Jure Praedae* that the Sultan of Johore granted the *Santa Catarina* to Van Heemskerck must be regarded as a deliberate fabrication.

cited liberally from the deposition of one of these freed prisoners, Martin Apius. It would appear, then, that the Portuguese authorities in Asia did not leave the Dutch without legal remedy. Yet Grotius never considered this possibility in *De Jure Praedae*. Instead, he wanted to have his cake and eat it too. On the one hand, he faulted the *Estado da India* for its alleged reluctance to deal with the heinous crime and shed crocodile tears over “the failure of the Portuguese commonwealth to take steps for the punishment of Portuguese individuals.” On the other hand, he flatly denied that the officials of the *Estado da India* qualified as independent judges. In his view, “[t]he Portuguese commonwealth and its ruler were the very parties who took the first step, not only in the public infliction of injury upon the Dutch, but also in initiating the war.” God forbid that the Portuguese should serve as judges in their own cause! Grotius had created a false dilemma, to which there was only one solution. He noted that a) the courts of the United Provinces were too far away from the East Indies to be of any help and that b) Asian rulers had no desire to mediate between the Dutch and Portuguese, or become involved in the standoff in any way. His conclusion in chapter 12 of *De Jure Praedae* was as predictable as it was opportune: Van Heemskerck had no choice but to take action himself and attack a Portuguese merchantman in revenge.⁵⁰

Grotius’ conceptualization of private war as an essentially legal process (i.e. ‘administering justice by other means’) plays an important role in chapter 13 of *De Jure Praedae* as well. Although it purports to examine the capture of the *Santa Catarina* from a different angle, that of public war, its closing paragraphs conflate both perspectives. At first sight, the argument of chapter 13 is deceptively straightforward. Van Heemskerck is presented as the agent of a sovereign state, who despoils the enemy at the behest of the *respublica Hollandica*. Grotius could have left it at that. As the agent of a sovereign state, Van Heemskerck was entitled to do what he did, provided he had convinced himself that the United Provinces were fighting a just war against the King of Spain and Portugal. Yet Grotius was not altogether satisfied with this justification of the ship’s seizure. He harked back to his own notion of private war when he discussed Johorese-Dutch relations in the chapter’s final paragraphs.

⁵⁰ *Bijdragen en Mededelingen van het Historisch Genootschap* 6 pp. 239–242; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 89–94, 198–201, 272–277.

The complicating factor was the **injuries** which both Van Heemskerck and the Sultan of Johore had sustained at the hands of the Portuguese, an issue inextricably intertwined with that of **reparations**. Such an untidy mixture of arguments merits a detailed discussion. The intellectual linchpin of the closing paragraphs is, in fact, the commission which had been granted to Van Heemskerck by the Lord High Admiral of Holland, Maurice of Nassau. Grotius' understanding of this commission establishes an indissoluble link between the notions of public and private war.⁵¹

Grotius recognized that, in the first instance, a commission must be considered the functional equivalent of an appointment letter. Van Heemskerck derived his authority from the Dutch *Stadtholder*, who had been invested with "supreme powers for warfare on land or sea." The commission made Van Heemskerck akin to a soldier, waging war on behalf of the *respublica Hollandica*. There was another possible explanation, however. Grotius made the startling suggestion that a commission like the one granted by Maurice of Nassau had the same import as a letter of marque. He flatly denied that "orders authorizing the waging of war are of narrower import than [letters of] reprisal." True, the commission prohibited the use of force unless Van Heemskerck was "compelled to do so by injuries essayed against himself, his men, or his ships." Yet the Lord High Admiral had also commanded his subaltern to employ all possible means "either for the defense of his person, men, and ships, or for *the reparation of injuries*." It was easy to reconcile the discrepancies between the two sets of instructions, which were rather slight anyway. Grotius posited that it would be difficult in any situation, but altogether impossible on the high seas, to "pursue and overtake the identical persons who harmed us." It must therefore be presumed that:

[Maurice of Nassau] is consenting to the exaction of reparations not only from the individuals who actually inflicted the injuries but also from all persons upon whom the law of nations imposes the obligation to make such reparations.

Since any given state was the sum total of its citizens, the latter became liable to punishment and the payment of reparations if their sovereign failed to bring a subject to justice who had harmed an inhabitant of another state. In other words, the Portuguese people

⁵¹ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 305–306, 310–313.

and all their belongings were fair game for Van Heemskerck. Grotius interpreted the right to exact damages so liberally that, to all intents and purposes, he equated Van Heemskerck's commission with a letter of marque.⁵²

On whose behalf might Van Heemskerck obtain satisfaction and reparations? Obviously, he could do so on behalf of himself and his men. Grotius claimed that the Portuguese had been behind the imprisonment of Van Heemkerck's crew members at Demak, for example, even though Van Heemskerck himself had never made any suggestion of the kind. A more convincing argument for the carrack's capture was, of course, the execution of Van Neck's crew at Macao. Since the victims had been employed by "the same Company that was retaining Van Heemskerck's services," it was impossible "to regard them as strangers, nor was it any less fitting for the Admiral and all his sailors to be deeply moved by the memory of that crime." Indeed, the Dutch Estates General and Prince Maurice would have decreed war "if they could have been summoned to witness the affair." In addition, Grotius mentioned the dismal fate of Jacob Waterman, assistant at the trading post that Van Heemskerck had already established in the Banda Islands in 1599. The unlucky surgeon had been intercepted while crossing over to Ambon in a canoe and had been barbarously murdered by the Portuguese in March 1601. Grotius assumed, quite correctly, that Van Heemskerck's outrage at the decapitation of Waterman had contributed to his decision to attack Portuguese shipping, first in the eastern ports of Java, then in Patani and, finally, in Singapore Straits. It was a praiseworthy ethical stance in Grotius' view, for "he who avenges injuries inflicted upon his friends is avenging not only their wrongs but also, in a sense, his own."⁵³

Yet Grotius admitted that all these considerations paled besides the Portuguese outrages which the Sultan of Johore had so vividly described in his letter to Van Heemskerck. We may recall that the ruler had been given a draconian ultimatum by the *capitão-mór* of Malacca. Unless he broke off all contacts with Van Heemskerck and barred Dutch ships from his ports forever, the *capitão-mór* would declare war on Johore. To press home the argument, a squadron of

⁵² *Ibidem* pp. 306–307.

⁵³ *Ibidem* pp. 204–205, 308–310; Coolhaas, 'Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*,' pp. 519–521, 524; Terpstra, 'De Nederlandsche Voorcompagnieën' pp. 373–378.

Portuguese warships had blockaded the mouth of Johore River for three months and brought trade and shipping to a standstill. In *De Jure Praedae*, these intimidation tactics fell under the heading of damages sustained by Van Heemskerck and, in fact, by all of Grotius' compatriots. As the Delft jurist explained, "real injury is inflicted when one party is driven to accept calumnies against another, and when any person is debarred from that which is his right under the law of nations." The Portuguese had blockaded Johore River for no other reason than to "cut off the Hollanders from access to that region." There could be no doubt, then, "as to the existence of injuries calling for reparation."⁵⁴

The Sultan's letter did not just oblige Van Heemskerck to vindicate himself and his countrymen, but to entertain the possibility of assisting an indigenous ruler as well. Grotius emphasized that the Sultan had written to the Dutch commander in order to ask "for help in warfare." He took it for granted that Johore was both a "kingdom" (*regnum*) and "sovereign principality" (*supremus principatus*), which meant that its ruler had "the authority necessary to conduct a public war." Since sovereigns were at liberty to choose their own agents, Grotius concluded that it was permissible for Van Heemskerck to enter the war as the Sultan's ally.⁵⁵

The mere fact that it was permissible did not explain, however, why Van Heemskerck had entered the lists as the Sultan's champion. Grotius' explanation was simple: Van Heemskerck had been under a moral obligation to assist the ruler in his distress. He could not have "remained guiltless while withholding assistance" because he had both the means and the opportunity to be of service to the Johorese. Grotius buttressed this moral imperative with various quotations—sometimes unacknowledged—from ancient philosophers, the church fathers and the Gospels, a mixture of references that was characteristic of *De Jure Praedae* as a whole. Grotius pointed out that Cicero had distinguished between two types of injustice in *De Officiis*:

the kind characteristic of persons who inflict injury; and the kind characteristic of those who fail to ward off injury, when they are able to do so, from the victims upon whom it is inflicted.

⁵⁴ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 310.

⁵⁵ *Ibidem* p. 314; Peter Borschberg, 'De Societate Publica cum Infidelibus: Ein Frühwerk von Hugo Grotius,' *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung* 115 (1998) pp. 355–393.

Grotius emphasized that any man guilty of the second type of injustice was “as gravely at fault as if he were forsaking his parents or friends or native land.” He endorsed the Stoic teachings on “the universal bond of human fellowship,” a bond that joined together both citizens and foreigners. No human being could repudiate this sacred bond “without being adjudged impious towards God Himself, the Author thereof.” Even the church father St. Ambrose had taken a leaf out of *De Officiis* when he argued that somebody “who has failed to resist injury to his fellow man is no less culpable than the individual who inflicts that injury.” Grotius could not agree more, of course. The next step in his argument was an obligatory reference to Aristotle, who conveniently declared in his *Rhetoric to Alexander* that it was particularly appropriate to help those “who have previously bestowed some benefit upon us.” Aristotle’s precept certainly applied to cases where “one party undergoes injury from others precisely for the reason that the victim has conferred a benefit upon us.” Asian princes and peoples had incurred the wrath of the Portuguese for no other reason than that they had traded with Dutch merchants. In the light of these philosophical considerations, there could be no doubt in Grotius’ mind “that the injuries suffered by these East Indians are properly the concern of the Hollanders.”⁵⁶

Unless Grotius’ compatriots were of the opinion, of course, that they had nothing in common with infidels and unbelievers. Yet Grotius was anxious to dispel this assumption and wrote a short little treatise on the subject alongside *De Jure Praedae*, entitled *De Societate cum Infidelibus*. The similarities between the two manuscripts are striking indeed. For example, Grotius observed in *De Societate cum Infidelibus* that Christians should refrain from abusing unbelievers and treat them as fellow men in accordance with the moral teachings of the New Testament. He made the same argument in *De Jure Praedae*. The commandment “Thou shalt love thy neighbour as thyself” was an injunction to love every human being, not just fellow Christians. The parable of the Good Samaritan was positive proof for Grotius

⁵⁶ Grotius, *Commentary on the Law of Prize and Booty* Vol. 1 pp. 314–15; Tuck, *Philosophy and Government* pp. 31–64, 154–201; Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* pp. 16–50, 78–108.

As Tuck points out, the Stoics never enjoined Roman citizens to prioritize a foreigner’s wellbeing over that of a compatriot. Grotius did not make this claim either.

that “the obligations of humane conduct are not dispelled on the grounds of religion.”⁵⁷

Grotius’ main authority on the question whether Christians might contract alliances and treaties with infidels was, of course, the Spanish theologian Francisco de Vitoria (1485–1546). The latter’s *Relectio Prima de Indiis* (On the American Indians) was cited both in *De Jure Praedae* and *De Societate cum Infidelibus*. Grotius averred in *De Jure Praedae* that alliances with infidels were permissible “for the purpose of defending one’s own right.” In *De Societate cum Infidelibus* he claimed that non-aggression pacts between Christians and unbelievers were a logical consequence of the natural law which dictated inoffensiveness (i.e. nobody should harm another person). The same references to biblical patriarchs and kings who had allied themselves with unbelievers—Abraham, Isaac, David and Solomon—are found in both *De Jure Praedae* and *De Societate cum Infidelibus*, in fact.⁵⁸

Grotius did not end chapter 13 of *De Jure Praedae* with a mere affirmation of the validity of contracts and alliances concluded between Christians and infidel rulers. Instead, he turned his attention once again to the Sultan of Johore and Van Heemskerck and argued that they had been entirely right in taking up arms against Malacca. Portuguese harassment of the Sultan, especially Albuquerque’s attempt to forestall a Johorese-Dutch alliance, had made a mockery of “the law of nations” as well as “the distinct jurisdictions of different princes.” Serious harm had been done to “a free king” (*rex liber*) because “war [had been] forthwith begun against him.” The hapless ruler could justifiably treat the Portuguese as his enemies, both in a collective sense and each of them individually. It followed, then, that they “were open to despoliation under the auspices of the ruler

⁵⁷ Borschberg, ‘De Societate Publica cum Infidelibus: Ein Frühwerk von Hugo Grotius’ p. 374.

⁵⁸ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 315; Borschberg, ‘De Societate Publica cum Infidelibus: Ein Frühwerk von Hugo Grotius’ pp. 361–64, 372; Francisco de Vitoria, *Political Writings* ed. A. Pagden and J. Lawrance (Cambridge: Cambridge UP, 1991) pp. 231–292; Antonio Truyol Serra, ‘Francisco de Vitoria Y Hugo Grocio’, *Ciencia Tomista* 111 (1984) pp. 17–27, particularly p. 23; Robert Feenstra, ‘Quelques remarques sur les sources utilisées par Grotius dans ses travaux de droit naturel’ in: *The World of Hugo Grotius (1583–1645): Proceedings of the International Colloquium Organized by the Grotius Committee of the Royal Netherlands Academy of Arts and Sciences, Rotterdam, 6–9 April 1983* (Amsterdam and Maarsen, 1984) pp. 65–81, particularly p. 74.

of Johore.” Grotius singled out his compatriots for their laudable piety in coming to the Sultan’s rescue. It was hard to think of a better way to serve the cause of true religion. The conversion of indigenous peoples to Christianity must be contingent, first of all, upon their physical safety and welfare and, secondly, upon examples of virtuous behavior, such as the charity shown by Dutch merchants and mariners. In Grotius’ words,

Let those peoples [in Asia] look upon religion stripped of false symbols, commerce devoid of fraud, arms unattended by injuries. Let them marvel at the faith which forbids that even infidels should be neglected. In achieving these ends, we shall be preparing men for God.

Grotius concluded that the Sultan of Johore and his Dutch allies had been engaged in a just war (*justum bellum*) against the Portuguese and that, *ipso facto*, the seizure of the *Santa Catarina* had been entirely legitimate.⁵⁹

Grotius then raised the question to which party the carrack belonged under natural law. His answer was simple and straightforward: “the right to that prize was vested in the ruler of Johore himself.” Had they known about it, both the Sultan and Van Heemskerck would have been exceedingly puzzled by Grotius’ assertion. There is no reason to believe that the Sultan staked a claim to the *Santa Catarina* at any point. The evidence suggests that he considered its passengers and crew to be Van Heemskerck’s prisoners, for example, not his own. Similarly, the Dutch commander did not make any effort to obtain the release of the crew of a Portuguese junk, which had been captured by the Johorese naval forces at the same time as the *Santa Catarina*. Nor did Van Heemskerck regard himself as an agent of the Sultan. The *Santa Catarina* had been seized by virtue of the commission of the Lord High Admiral of Holland and in accordance with the resolution of the Broad Council of 4 December 1602. If anything, it was Van Heemskerck who rewarded the Sultan following the carrack’s capture, not the other way around. Grotius was clearly unaware of the presents worth 10,000 guilders that came the Sultan’s way in the aftermath of the carrack’s seizure. He explicitly denied that there had ever been a “formal agreement as to compensation” between the ruler and Van Heemskerck. When the Sultan ceded the

⁵⁹ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 316.

Santa Catarina to the United Amsterdam Company, he had allegedly done so for the same reason as the Estates of Holland renounced its claim to the prize goods eighteen months later. The motives that Grotius ascribed to the Sultan bore an uncanny resemblance to his own understanding of the Estates' edict of 1 September 1604. While the battle was fought under the Sultan's auspices, its happy issue should be attributed to Van Heemskerck's ships and crew, which were employed "at the Company's expense and at its peril." This meant that the spoils of war were due to the United Amsterdam Company as well, in accordance with "commonly accepted usages of war, confirmed by natural equity." Once he had settled this point, Grotius made an attempt to integrate the various strands of argument. In his view, the *Santa Catarina* had been acquired

at the command of the Dutch Estates General, on the grounds furnished by the war waged in the name of Johore (*ex causa belli Jorensis*), at the expense of the Company, for that Company itself.

There could be no doubt about the legitimacy of the carrack's capture, regardless of whether the war was public or private, or, assuming that it was public, regardless of whether "it was waged on behalf of the fatherland or on behalf of allies" (*ex patriae aut ex sociali causa*). Pleased with the ingenuity of his summation, Grotius smugly observed that "the Company itself [had become] the owner of the above-mentioned prize, from the standpoint of all law."⁶⁰

⁶⁰ *Ibidem* pp. 303–5, 312–313, 316–317.

CHAPTER TWO

HUGO GROTIUS AND THE SPANISH BLACK LEGEND: HUMANIST HISTORIOGRAPHY AND MORAL PHILOSOPHY IN *DE JURE PRAEADAЕ*

2.1 *Introduction*

In the previous chapter, we reconstructed Van Heemskerck's seizure of the *Santa Catarina* and examined its justification by the Broad Council, the Amsterdam Admiralty judges, and the author of *De Jure Praeadae*. We have seen that the carrack's capture was the result of close cooperation between Van Heemskerck and the Sultan of Johore, each of whom had a bone to pick with the Portuguese. The Dutch commander was provoked by the execution of seventeen of Van Neck's crew in Macao, while the Sultan resented the Portuguese naval blockade of Johore River. Yet Van Heemskerck realized that the home front would consider his attack on Portuguese shipping outright piracy unless he presented it as both a preemptive strike to preserve Dutch trade and as a condign punishment for the outrages which the Portuguese had committed against his compatriots and indigenous trading partners. The Amsterdam Admiralty judges accepted this line of argument. They elaborated it with some inchoate references to natural law, *ius gentium* and the law of war on the one hand and to the commission that Van Heemskerck had received from Prince Maurice, Lord High Admiral of the Dutch Republic, on the other. It fell to Grotius to unravel and reorder the various legal principles heaped together by the Admiralty Board. In chapters twelve and thirteen of *De Jure Praeadae*, he made an important distinction between private and public wars. In his view, Van Heemskerck had been justified to take the *Santa Catarina* both as a private person and as the agent of two sovereign powers. Since the Portuguese had transgressed the natural law mandating freedom of trade and navigation, they were liable to punishment, which, for lack of independent judges in the East Indies, could be administered even by private persons. Yet Van Heemskerck was also an agent of the Dutch Estates General and the Sultan of Johore, witness Prince Maurice's commission

and the Sultan's plea for help. Both the Dutch Estates General and the Sultan of Johore had officially declared war on the Portuguese. As an agent, Van Heemskerck had every right to engage in hostilities on their behalf, which, in Grotius' parlance, constituted a public war, because fought under the aegis of two fully sovereign and independent powers.

These were all startling claims in Grotius' day and age. Except for the Spanish scholastics, no sixteenth century legal scholar believed that Indian rulers were full-fledged sovereigns. The United Provinces were not even considered an independent and sovereign state by its most important allies, the French and English monarchs. Right until the Twelve Years' Truce, the agents who represented the Dutch Republic at the French and English courts lacked the title and status of ambassador, for example. Completely unprecedented was Grotius' suggestion that, in the absence of an independent judge, the right to self-preservation allowed private persons to be judges in their own cause and punish transgressors of the natural law. As we shall see in chapter six, it literally dumbfounded the English civil lawyers who negotiated with Grotius at the Anglo-Dutch colonial conferences of 1613 and 1615.¹

Yet Grotius needed to do more than develop a new theory of natural law and natural rights in order to justify Dutch privateering in the East Indies. It is the argument of this chapter that he relied just as much on humanist historiography and moral philosophy to make his case. When Grotius scribbled the words "*historica sequuntur*" at the top of the first folio of chapter eleven of *De Jure Praedae*, he had no intention to write an objective history of Dutch trade in the East Indies. Instead, he presented the 'facts' of the case in accordance with the classical principles of forensic oratory. While the Roman historian Tacitus demanded that history be written *sine ira et studio* (without hatred and zeal), rhetoricians like Cicero and Quintilian had always distinguished between history *per se* and history that served

¹ S. Barendrecht, *François van Aerssen: Diplomaat aan het Franse Hof, 1598–1613* (Leiden: Leiden UP, 1965) pp. 228–229; Jonathan I. Israel, *The Dutch Republic: Its Rise, Greatness, and Fall, 1477–1806* (Oxford: Clarendon Press, 1995) pp. 405–406; Anthony Pagden, 'Dispossessing the Barbarian: The Language of Spanish Thomism and the Debate over the Property Rights of the American Indians', *The Languages of Political Theory in Early-Modern Europe* ed. Anthony Pagden, Ideas in Context (Cambridge: Cambridge UP, 1987) pp. 79–98; Richard Tuck, *Philosophy and Government* pp. 169–179 and Tuck, *The Rights of War and Peace* pp. 79–94; chapter six below.

the purpose of eulogistic, deliberative or forensic oratory. Grotius' training in the *studia humanitatis* allowed him to make that distinction as well. (His papers in Leiden University Library contain dozens of folios of reading notes on Greek and Roman orators!) History serves as the handmaiden of forensic oratory in chapter eleven of *De Jure Praedae*, even though the manuscript as a whole clearly exceeds the normal length of a seventeenth century legal brief.²

Like Cicero before him, Grotius presented some, but not all, of the facts of the case in chapter eleven of *De Jure Praedae*. He had no qualms about painting the darkest possible picture of his opponents and deliberately tarred the Portuguese with the brush of the Spanish Black Legend. The brutal treatment of the Amerindians by Spanish *conquistadores* like Hernán Cortés and Francisco Pizarro had been a topos of Dutch war propaganda ever since the outbreak of the Eighty Years War. In their quest for domestic and international support, the ghostwriters of rebel leader William the Silent had produced one pamphlet after another suggesting that Philip II of Spain intended to conquer the Low Countries and subject its inhabitants to the most abject slavery, akin to Spanish tyranny in the Americas.³ Grotius deliberately introduced the twin themes of 'conquest' and 'enslavement' in chapter eleven of *De Jure Praedae* in order to tap this rich vein of anti-Spanish rhetoric. The Portuguese attempts to obstruct Dutch trade in the East Indies were presented as the mirror image of Spanish tyranny in the Americas and the Low Countries. A case in point is Grotius' description of the punitive expedition of André Furtado de Mendoza, who besieged Bantam in December 1601 and terrorized the Spice Islands in the spring and summer of 1602. Furtado's expedition fell under the same rubric as the *conquistadores'* massacring of Amerindians and the so-called 'Spanish fury' in the Low Countries, the brutal despoilation of Dutch towns that surrendered to Habsburg armies. In Dutch war propaganda, this catalogue of horrors was proof that the King of Spain and Portugal aspired to be a universal monarch or 'lord of all the world'. Iberian conquest and colonization went hand in hand, both inside and outside Europe. Its victims were denied any kind of property rights or

² Leiden University Library, BPL 922-IV, fol. 411-444; Waszink, 'Tacitisme in Holland: de *Annales et Historiae de Rebus Belgicis* van Hugo de Groot' passim.

³ Benjamin Schmidt, *Innocence Abroad: The Dutch Imagination and the New World, 1570-1670* (Cambridge: Cambridge UP, 2001) pp. 73-122.

personal liberty, religious and otherwise. Grotius' narrative of the early Dutch voyages to the East Indies cast the Portuguese in the role of desperate villains, out to maintain their monopoly of the spice trade at all cost, even though freedom of trade and navigation was mandated by natural law. Since the Portuguese went to great lengths to keep control of key Asian ports and sea lanes, it was not difficult for Grotius to construe the Portuguese obstruction of free trade as another chapter in the long history of the Spanish Black Legend.

That said, Grotius' implicit references to the Spanish Black Legend are never just a clever rhetorical ploy. His narrative in chapter eleven of *De Jure Praedae* is based on the sworn statements of Dutch captains, merchants and mariners, who either witnessed the Portuguese outrages themselves, or heard credible accounts thereof. The facts seemed to speak for themselves. Or did they? As we shall see below, the attestants dramatically changed their opinion of the Portuguese when they learnt of the execution of Van Neck's crew in Macao and Furtado's punitive expedition to Bantam and the Spice Islands. At first, they considered the Portuguese whom they met in the ports of Java and Sumatra as a minor, yet inevitable nuisance—Portuguese renegades served local rulers in the capacity of military advisers, for example. Yet the massacre at Macao and Furtado's expedition threw an entirely different light on their experience in Asia. It suggested the existence of a nefarious Portuguese conspiracy, which, masterminded by the captain-major in Malacca, had spread its tentacles all the way from Sumatra and Java in the west to the Spice Islands in the east. The sworn statements consulted by Grotius all interpreted the early Dutch voyages to the East Indies from this particular perspective. For example, the trials and tribulations of the First Voyage were explained away as manifestations of a Portuguese conspiracy to preclude Dutch trade and navigation in Asia. This reinterpretation of history was corroborated by the attestants' conversations with the Pangoran of Bantam and Sultan of Aceh, who were only too happy to play along. Malaccan envoys and Portuguese renegades were conveniently blamed for previous 'misunderstandings' between the new allies, such as the Acehnese attack on two Dutch merchantmen in September 1599. If their encounter with Furtado's *armada* had taught the two indigenous rulers anything, it was that they needed a Dutch alliance in order to retain their political independence vis-à-vis Malacca. The attestants were, of course, eager to forgive and forget past offenses in order to establish good working relations with the Pangoran of Bantam

and Sultan of Aceh. Nor was it difficult for them, in the wake of Furtado's expedition, to believe the rulers' tales about Portuguese intrigue and intimidation. As for Grotius, it suited him just fine to write chapter eleven of *De Jure Praedae* on the assumption that a Portuguese conspiracy explained the rulers' ambivalent attitude towards Dutch merchants when the latter first arrived in Bantam and Aceh. Indeed, it was Grotius who realized the full implications of the Spanish Black Legend for the Dutch war of independence. It neatly justified Dutch overseas expansion as one more military front in the struggle against the Habsburg pretensions to universal monarchy. The United Dutch East India Company should send warships to the East Indies in order to liberate Asian princes and peoples from Portuguese tyranny and unite these victims of Iberian conquest and colonization in a truly global alliance for freedom of trade and navigation. Grotius practiced what he preached: in the winter of 1606–1607, he drafted letters on behalf of the VOC directors, urging the Company's indigenous allies in the Spice Islands to make peace with one another, all for the sake of a grand anti-Portuguese alliance.⁴

Yet Grotius realized that his compatriots needed a new, humanist ethics in order to benefit fully from the *renversement des alliances* in the East Indies. Dutch merchants and mariners had to show themselves worthy allies of Muslim rulers, without allowing considerations of Christian fellowship to get in the way. Van Heemskerck's refusal to grant the request of the *capitão-mór* of Malacca and obtain the release of Portuguese prisoners from the Sultan of Johore was an example in point. Had he known about it, Grotius would certainly have applauded Van Heemskerck's decision. The establishment of a Dutch trading empire in the East Indies demanded a hard-nosed moral philosophy, one that attached little importance to the cardinal virtues of charity and mercy, let alone such medieval notions as the unity of Christendom. It was not difficult for Grotius to create a set of ethical standards that suited the VOC's military and commercial strategies. He combined a radical reinterpretation of natural law and natural rights with such humanist notions as the love of

⁴ Grotius Papers at the Dutch National Archives, Supplement I, fol. 361–362, 365–366.

An English translation of the letter to the Sultan of Tidore is forthcoming in Grotius, *Commentary on the Law of Prize and Booty*, ed. Van Ittersum.

fatherland and the fellowship of mankind. In conjunction with *De Jure Praedae*, he wrote a smaller treatise, *De Societate cum Infidelibus*, in order to prove that contracts with infidels were morally and legally binding for Christians. Yet Grotius went much further than this in *De Jure Praedae* in order to justify Dutch overseas expansion. It was one thing to argue that Christians should keep faith with heretics, but quite another thing to turn VOC servants into enthusiastic allies of infidel rulers. As we shall see below, Grotius advocated a reordering of moral priorities in *De Jure Praedae* and emphasized the allegiance that a man owed to his fatherland and, at one remove, to humanity as a whole, at the expense of his moral obligations as a Christian. If VOC servants had to choose between their indigenous allies and the Portuguese enemy, they should disregard such nebulous notions as Christian fellowship and do their duty as citizens of the world and of the United Provinces in particular.⁵

Grotius was not particularly troubled by the thought that infidel rulers might demand their compliance with local customs and usage which conflicted with the Ten Commandments. In chapter fifteen of *De Jure Praedae*, he told the cautionary tale of the murder of Captain Sebald de Weert precisely because he wanted to argue against mixing Christian precepts with international relations. It was Sebald de Weert who had made this crucial mistake and died at the hands of the King of Kandy, the ruler of the interior of Ceylon and a staunch enemy of the Portuguese. De Weert had been utterly wrong in his belief that he could show mercy to his Portuguese prisoners, yet be a good ally of the King of Kandy at the same time. In Grotius' view, it was inappropriate for the citizen to be merciful towards his country's enemies, certainly if he endangered his own life by doing so. Enemies such as the Portuguese, whose behavior put them outside the bounds of humanity (the Black Legend again!), were simply not entitled to charity or mercy. The fellowship of mankind made few moral demands anyway. It was sufficient for human beings to assist each other in accordance with the natural law of inoffensiveness—"whatsoever ye would that men should do to you, do ye even so to them." Grotius implied that De Weert should have rendered up his Portuguese prisoners to the King of Kandy, regardless of his promises to them and regardless of the terrible fate that would have befallen them—the

⁵ Borschberg, 'De Societate Publica cum Infidelibus: Ein Frühwerk von Hugo Grotius' *passim*.

Sinhalese ruler was in the habit of executing Christian captives. Clearly, it was neither prudent nor profitable to fight a worldwide war against Habsburg tyranny on the basis of biblical precepts. The VOC should observe such local custom and usage as did not conflict with natural rights and natural law, the only legal and moral code that Grotius deemed applicable to human civilization as a whole.

In this chapter, we will first look at the Spanish Black Legend that circulated in Holland in Grotius' time, particularly the printing history of *Brevísima Relación*, the famous account of Spanish conquest and colonization in the Americas by Bartolomé de las Casas. The first Dutch translation of *Brevísima Relación* was published in 1578. A French translation by Jacques de Miggrode appeared in Antwerp a year later. Known as the *Mirror of the Spanish Tyranny in the West Indies*, it went through multiple editions in Dutch, German, French, English and Latin. The Amsterdam printer and bookseller Cornelis Claeszoon issued reprints in 1596 and 1607, for example, and published a new, pictures-only edition in 1609, all in Dutch translation. Equally important was the Latin edition of *Brevísima Relación* published by Theodore de Bry in Frankfurt am Main in 1598, which contained a set of gruesome illustrations by Joost de Winghe, a Flemish refugee. De Winghe's illustrations became a hallmark of Dutch, French and English editions of *Brevísima Relación* in the first half of the seventeenth century, starting with Claeszoon's pictures-only edition of 1609. This, then, was the textual and visual context of chapter eleven of *De Jure Praedae*. There are some striking similarities between its harrowing descriptions of Portuguese barbarism and inhumanity and the *Mirror of Spanish Tyranny in the West Indies*, which undoubtedly informed Grotius' rhetorical strategy in the *historica* chapter.⁶

⁶ *European Americana: A Chronological Guide to Works Printed in Europe Relating to the Americas, 1493–1776* ed. John Alden and Dennis C. Landis (New York: Readex Books, 1980) Vol. I: 1493–1600 pp. 229, 249, and Vol. II: 1601–1650 pp. 56, 77; A.J. Veldhuyzen–Brouwer, 'Bartolome de las Casas: La Brevisima Relacion de la Destruycion de las Indias. Een vergelijkende studie van zeven Nederlandse vertalingen, 1578–1664' (Unpublished M.A. thesis, Leiden, 1985) pp. 11–27; Jan Lechner, 'En torno a la Brevisima Relación de la destrucción de las Indias de Fray Bartolomé de las Casas' in: *España, Teatro Y Mujeres: Estudios dedicados a Henk Oostendorp* ed. Martin Gosman and Hubert Hermans (Amsterdam: Rodopi, 1989) pp. 217–226; B. van Selm, *Een menighe treffelijcke boecken: Nederlandse boekhandelcatalogi in het begin van de zeventiende eeuw* (Utrecht: HES Publishers, 1987) pp. 176–179; Theodore de Bry, *Discovering the New World* ed. Michael Alexander (London Editions, 1976) pp. 7–10; Tom Conley, 'De Bry's Las Casas,' in: *Amerindian Images and the Legacy of Columbus* ed. René Jara and Nicholas Spadaccini, *Hispanic Issues* Vol. 9 (Minneapolis: University of Minnesota Press, 1992) pp. 103–131.

In the second part of this chapter, we will turn our attention to the sources of *De Jure Praedae*. We will focus in particular on the attestations of Dutch captains, merchants and mariners that Grotius used in chapter eleven in order to reconstruct the early Dutch voyages to the East Indies. Grotius was hardly the first to suspect the existence of a nefarious Portuguese conspiracy to exclude the Dutch from the lucrative spice trade. A conspiracy theory had already been developed in these notarized attestations, drawn up at the request of the Amsterdam VOC directors in September and October 1604. A comparison with the journals of the early Dutch voyages will allow us to determine when and how the Spanish Black Legend became the attestors' favorite explanation for any difficulties they had experienced in their dealings with indigenous rulers. In addition, we will examine the various ways in which Grotius used this kind of information in chapter eleven of *De Jure Praedae*.

Finally, we will discuss Grotius' reordering of moral values in chapter fifteen of *De Jure Praedae*. If his compatriots were to become enthusiastic allies of infidel rulers, Grotius had to convince them that it was less important to do their duty as Christians than to serve the Dutch fatherland and, at one remove, humanity as a whole. It was vital for Grotius to put great emphasis on the alleged barbarism and inhumanity of the Portuguese in order to make his case. If, morally speaking, there was not much to choose between a judicial murder in Macao and the King of Kandy's mistreatment of Christian prisoners, then VOC servants could in good conscience do what was prudent and profitable, observing local custom and usage in order to oblige their indigenous allies. As we shall see below, Grotius was quite willing to forego the Christian moral code for the sake of freedom of trade and navigation.

2.2 *Lascasian Rhetoric in De Jure Praedae*

I *The Spanish Black Legend and the Dutch Revolt*

Historians have long recognized that the Spanish Black Legend was an important element of the anti-Habsburg propaganda produced during the Dutch Revolt and Eighty Years War (1568–1648). According to K.W. Swart and Benjamin Schmidt, the ghostwriters of William the Silent made some unique contributions to this xenophobic literature, which were quickly adopted by Calvinists elsewhere in Europe, who

feared the twin evils of the growth of Habsburg power and the spread of the Counter Reformation. Indeed, the Spanish Black Legend was in many ways a Dutch cultural artefact. The printing history of *Brevísima Relación* is a case in point. More editions of *Brevísima Relación* were printed in the United Provinces in the seventeenth century than in all other European countries combined. More importantly, the Antwerp edition of 1579 served as a template for translations into other European languages. As a result, generations of European readers viewed the Spanish monarchy and its colonial empire from the perspective of its archenemies, the pamphleteers of the Dutch Revolt, who had every incentive to paint the bleakest picture possible of Spanish 'tyranny'.⁷

The Dutch historian Swart analyzes the hispanophobic literature of the sixteenth century and its wholesale transformation at the hands of the Dutch rebels in his seminal article 'The Black Legend during the Eighty Years War'. He regards the hispanophobic literature produced during the Italian Wars (1494–1527) as the archetype of the Spanish Black Legend. Yet he admits that there are significant differences between the anti-Habsburg propaganda of the Italian city-states and that of the Dutch rebels. Contempt for Spain as a cultural wasteland was a unique feature of Italian hispanophobic literature, for example. The ghostwriters of William of Orange had a different ax to grind, however, and developed four new themes in their pamphlets:

- (i) the diabolical machinations of the Spanish Inquisition; (ii) the private vices of Spain's supposedly greatest king, Philip II; (iii) Spain's master plan for universal empire; and (iv) the innate cruelty of the Spanish people.⁸

⁷ Judith Pollmann, 'Eine Natürliche Feindschaft: Ursprung und Funktion der Schwarzen Legende über Spanien in den Niederlanden, 1560–1581' in *Feindbilder: Die Darstellung des Gegners in der Politischen Publizistik des Mittelalters und der Neuzeit* ed. Franz Bosbach (Cologne, 1992) pp. 73–93; K.W. Swart, 'The Black Legend during the Eighty Years War' in: *Britain and the Netherlands: Some Political Mythologies. Papers Delivered to the Fifth Anglo-Dutch Historical Conferences.* ed. J.S. Bromley and E.H. Kossmann (The Hague: Martinus Nijhoff, 1975) pp. 37–57; Simon Schama, *The Embarrassment of Riches: An Interpretation of Dutch Culture in the Golden Age* (London, 1987) pp. 67–68, 83–93; Schmidt, *Innocence Abroad* pp. 73–122.

Peter Burke has just published a small exposée on the different regimes of translation in early modern Europe and the importance of the Low Countries as a staple for cultural as well as material goods. Prior to 1700, nearly 50% of all translations out of English appeared in the Low Countries, for example. See Peter Burke, *Lost (and Found) in Translation: Translators and Translations in Early Modern Europe/Ik vertaal, dus ik ben: vertalers en vertalingen in vroegmodern Europa* (Amsterdam: Bert Bakker, 2005).

⁸ Swart, 'The Black Legend during the Eighty Years War' p. 38.

Swart relates these four themes to different stages of the Dutch revolt. The nefarious plots of the Roman Inquisition dominated the Dutch pamphlet literature prior to 1570. Marnix of St. Aldegonde depicted the Spanish monarchs as mere puppets of the Holy Office, which allegedly sought to extend its tyrannical rule to the Low Countries after its conquest of Aragon, Castile and the Indies. A clever and highly influential forgery was *The Advice of the Inquisition*, which gave the full text of a sentence supposedly passed by the Holy Office on 13 February 1568. According to this verdict, the entire population of the Low Countries had been found guilty of lese-majesty, thereby forfeiting life and property. The famous *Apology* of William of Orange, published in 1580, gave a new twist to the Spanish Black Legend by highlighting the alleged personal vices of Philip II. Once portrayed as a forlorn prisoner of the Inquisition, the King of Spain and Portugal was accused in the *Apology* of practicing incest, bigamy and filicide. Meanwhile Marnix of St. Aldegonde aimed his poisonous arrows at the alleged Spanish claims to universal monarchy. His *Exhortation concerning the Estate of Christendom* (1585) was addressed to the princes of Christendom, especially the rulers of France, England and the Holy Roman Empire, who were told in no uncertain terms that a collapse of the Dutch rebellion would make them the next targets of Spain's imperialist designs. The purported innate cruelty of the Spanish people was the fourth and most important theme of the Spanish Black Legend according to Swart. The Duke of Alba, for example, endured some of the worst *ad hominem* attacks in history. The rebel publicists bestowed on Alba such chilling sobriquets as "bloodhound," "Moorish tiger-beast," and "rascal of all rascals." They grossly overestimated the number of people executed for heresy or rebellion during his tenure as governor of the Low Countries (1567–1573). Scores of innocent people had allegedly been either hanged or burnt at the stake in every town and village in the Low Countries, down to the smallest hamlet, making canals and ditches overflow with human corpses. As for the much-advertised massacres at Naarden and Oudewater, Swart shows that Dutch pamphleteers used a double standard in their reports on the Duke's sieges of Holland towns. They faulted Spanish soldiers for indulging in some forms of cannibalism during the sack of Naarden, for example, but praised Dutch irregulars for engaging in the same practice at the famous siege of Leiden. Swart cautions us against taking at face value many other atrocities commonly attributed to the Duke's forces.

Rebel publicists routinely accused Spanish soldiers of ripping unborn children out of women's bellies, dashing the babies against the walls and casting their corpses into the canals. Swart inadvertently hits upon the truth when he proposes the existence of a literary link between these macabre stories and *Brevísima Relación*.⁹

Benjamin Schmidt has recently explored these rhetorical connections in his study of Dutch perceptions of the New World in the period 1570–1670. In his view, the ‘Americanization’ of the Dutch Revolt happened right from the start. The Dutch rebels were convinced that the diabolical machinations of the Holy Office were aimed at reducing the Low Countries to the same sorry state as the conquered Spanish territories in America. The Dutch gentry and lower nobility voiced these concerns as early as April 1566, when they petitioned Margaret of Parma, Regent of the Low Countries (1559–1567), for a suspension of the heresy laws. When the exiled Dutch Reformed community in Emden appealed for help to the German Diet in 1570, it expressed the fear that, if the Inquisitors went unchecked, they might well subject their compatriots to the same ordeals as they had the Amerindians, whom

Under the pretense of orderyng religion they spoyled . . . of all their goods and possessions, and of their wives, children and lives, yea and cruelly lyke butchers tearyng them with all kinde of tormentes they slew them by the heapes, and brought them to such miserie and wretched plight, that a great number of them chose rather to slay themselves, than to come under such cruell subiection of unnaturall men.

Alba's reign of terror only confirmed the interchangeability of the Dutch and Indian experiences, firing the pamphleteers' imagination. The Duke arrived in Brussels at the head of a Spanish army in order to “create a New World” in the Netherlands (his actual words!). He showed scant respect for constitutional procedures, introducing new taxes without the approval of the Estates General and establishing a special court—known as the Blood Council—to try the instigators of the Iconoclastic Fury of 1566, along with everybody else whom he considered a government opponent. (William of Orange was tried and convicted *in absentia*, for example.) Alba's repressive

⁹ *Ibidem* pp. 38–45, 47–48, 51–52; Janus Dousa, *Nova Poemata* (Leiden, 1575) f. Q6v–Q7r.

Modern historians put the number of Alba's victims at two to four thousand in total for the entire Low Countries.

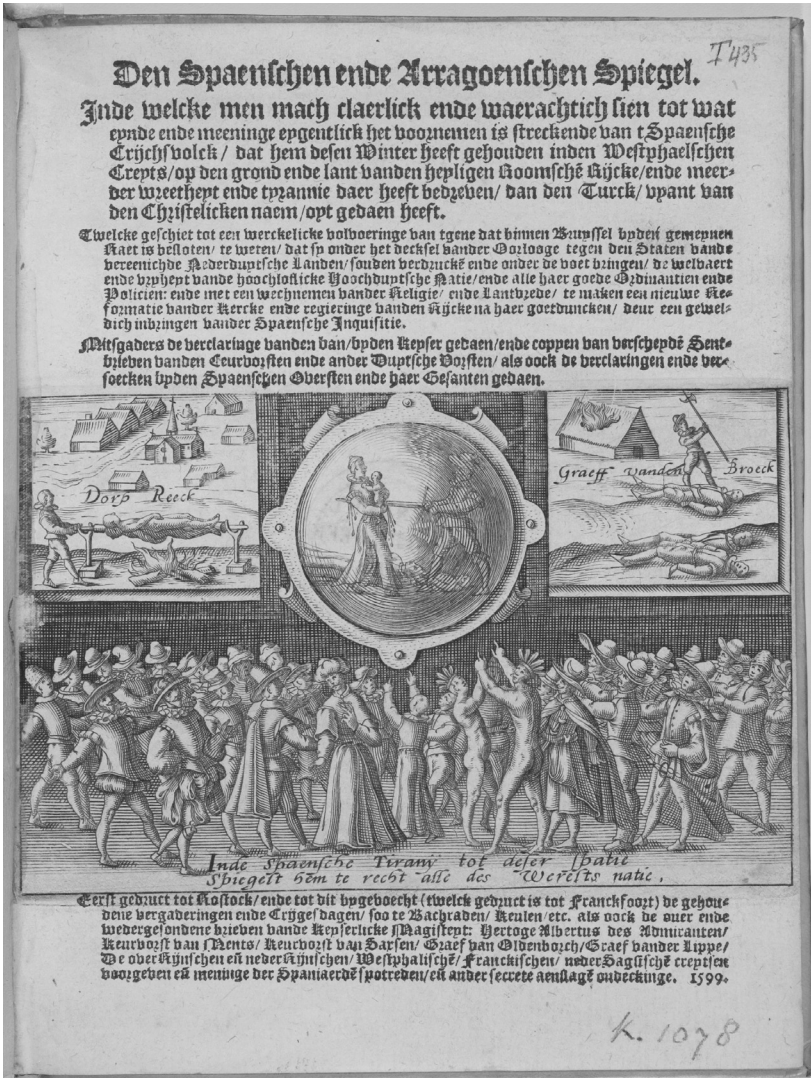


Fig. 10. Title page of *The Spanish and Arrogonese Mirror* (1599), which suggests a direct connection between the Spanish tyranny in the Americas and the Low Countries. Note the two despondent 'Indians' in the middle of the crowd, wearing nothing but feather headdresses. They point at the mirror vignette that depicts the cold-blooded murder of a Dutch mother and child by a Spanish soldier.



Fig. 11. Title page of the pictures-only edition of Bartolomé de las Casas, *Mirror of Spanish Tyranny in the West Indies* (Amsterdam, 1609), which depicts Spanish soldiers killing Aztec noblemen at a banquet given in the honor of their ruler Montezuma, at that point already a prisoner of Hernán Cortés.



Fig. 12. A friar baptizes the moribund child of an Indian princess, who has just committed suicide, while a Spanish *conquistador* feeds another Indian baby to his dogs. Plate XII in the pictures-only edition of Bartolomé de las Casas, *Mirror of Spanish Tyranny in the West Indies* (Amsterdam, 1609).



Fig. 13. The Butcher Shop: a Spanish landowner in the Americas feeds his native slaves with the body parts of other 'Indians'. Plate X in the pictures-only edition of Bartolomé de las Casas, *Mirror of Spanish Tyranny in the West Indies* (Amsterdam, 1609).

regime provoked a Second Revolt in Holland and Zeeland, where towns opened their gates to irregular Calvinist forces, the so-called Sea Beggars, in the spring and summer of 1572. The Duke reacted to these rebel victories with characteristic savagery. The Spanish army brutally sacked Mechelen, Naarden and Zutphen in order to *encourager les autres*. Since these towns had offered minimal or no resistance, contemporaries considered the sackings a flagrant abuse of the laws of war. It was by no means the last one. When the town of Haarlem surrendered in the summer of 1574, for example, the local Spanish commander did not honor his assurances of clemency, but executed its garrison of two thousand men in cold blood. No wonder, then, that the rebel publicists denounced Alba as a “cruel Phalaris, [a] tyrant, hated by God and mankind alike . . . possessed by insane fury and madness.” The Spanish army received an equally bad press. It busied itself with little else except

plundering, robbing and ravaging, evicting and desolating, apprehending, and intimidating, banishing, expelling and confiscating goods, burning and scorching, hanging, chopping, hacking, breaking on the wheel, and torturing and murdering with gruesome and unheard of torments the [Dutch] subjects of your Majesty, noble as well as common, poor and rich, young and old, widows and orphans, men, women, and young maidens.

As Schmidt notes, this kind of rhetoric invoked images of, and invited comparisons with, the Spanish conquest of the New World. It suggests that the Spanish Black Legend, as defined by the Dutch rebels, had been derived in its entirety from *Brevísima Relación*.¹⁰

Lascasian rhetoric reached the Low Countries in a variety of ways according to Schmidt. The international world of Calvinism had made it available to the Dutch rebels as early as the 1560s. French Calvinist had published martyrologies denouncing Spanish tyranny in the Americas. Its most notorious example was, of course, the destruction of the Huguenot colony in Florida in 1565. Ideologically speaking, the ground had been well prepared for the first Dutch edition of *Brevísima Relación*, published in 1578. Schmidt explains that “the rebels’ argument spun elegantly in circles.” If Spanish tyranny in The Netherlands seemed to mirror that in the New World, it was because their perception of events in America “came refracted through

¹⁰ As cited in Schmidt, *Immocence Abroad* pp. 76, 79–83.

the lens of recent developments in the Netherlands.” It was ideological self-reinforcement of the most powerful kind, which pervaded Dutch war propaganda for decades to come.¹¹

II *The Dutch Editors of De Las Casas*

As Schmidt points out, the printing history of *Brevísima Relación* reveals its importance for the anti-Habsburg propaganda produced in the United Provinces. Twenty-five editions of De Las Casas rolled off the Dutch presses before the end of the Eighty Years War, while most print-runs dated from the first quarter of the seventeenth century. The propagandistic value of *Brevísima Relación* increased even as the United Provinces gained a measure of political stability and military security. It continued to be a staple of domestic political debate, for example. Schmidt notes, quite correctly, that the war party in the United Provinces used Lascasian rhetoric to voice its opposition to peace and truce negotiations with Philip III in 1598 and 1607–1609. *Brevísima Relación* was presumptive evidence for the war party that Philip III did not keep faith with heretics (whether Indians or Calvinists) and still sought to recapture the Low Countries, once an extended armistice or a few years of peace had fatally weakened Dutch vigilance. In a commercial context, *Brevísima Relación* justified Holland’s overseas expansion. Schmidt underestimates just how closely intertwined political and economic freedom was in the minds of Dutch merchants at the turn of the seventeenth century. Having thrown off the shackles of Spanish tyranny, they considered themselves in a perfect position to liberate Indians from Iberian oppression and enforce freedom of trade and navigation in the extra-European world. These convictions were current long before the founding of the bellicose Dutch West India Company in 1621. Indeed, the WIC expeditions discussed by Schmidt were largely unsuccessful in their attempt to roll back Spanish conquest and colonization in South America. Schmidt ignores, however, the Lascasian rhetoric found in *De Jure Praedae* and its profound influence on VOC strategy. Freedom of trade and navigation, which primarily meant the freedom to trade with indigenous peoples without Portuguese or Spanish interference, became the rallying cry of the VOC directors, who were

¹¹ Schmidt, *Innocence Abroad* pp. 90–93, 96–99, 108, 111–122.

far more successful in putting Grotius' theory into practice than their WIC colleagues.¹²

In this section, we will look at various editions of *Brevísima Relación* that were either published or sold by the Amsterdam bookseller and printer Cornelis Claeszoon (1551–1609). How did these editions shape Grotius' understanding of the Spanish Black Legend? How did they justify Dutch interloping in the Portuguese colonial empire? It was hardly a coincidence that, alongside *Brevísima Relación*, Cornelis Claeszoon printed many other works on travel and navigation in the East and West Indies, including Jan Huygen van Linschoten's famous *Itinerario* and Willem Lodewyckszoon's journal of the first Dutch voyage to the East Indies. *Brevísima Relación* was a perfect fit for a printing portfolio already stocked with oriental wares. The pamphlet's high turn-over also guaranteed a steady cash flow, which Claeszoon needed in order to finance the publication of up-market, expensive books like *Itinerario*. Clearly, there were sound commercial reasons for Cornelis Claeszoon to publish and sell several different editions of *Brevísima Relación*. Six Dutch editions were printed under his aegis in 1596, 1607 and 1609. He could also offer his clients the French translation of Jacques Miggrode and a Latin edition illustrated by Joost de Winghe, which was published by Theodore de Bry in Frankfurt am Main in 1598. As we shall see below, it was De Winghe's illustrations that came to represent the Spanish Black Legend in Grotius' time.¹³

The Dutch editions of *Brevísima Relación* that were available in the bookshop of Cornelis Claeszoon did not hark back to the Spanish original, but were based on the French translation of Jacques Miggrode, a Protestant minister and ardent supporter of William of Orange. Published in Antwerp in 1579, the translation was a direct comment on the Dutch Revolt. In his preface, Miggrode juxtaposed the plight of the Amerindians with the sufferings of his compatriots, whom he warned not to surrender to Philip II and consider carefully

¹² Ibidem pp. 106–107, 164–210; Lechner, 'En torno a la Brevissima Relación de la destrucción de las Indias de Fray Bartolomé de las Casas'; Veldhuyzen-Brouwer, 'Bartolome de las Casas: La Brevissima Relacion de la Destruycion de las Indias' pp. 11–12.

¹³ Van Selm, *Een menigte treffelijcke Boecken* pp. 179–181, 183–184, 216–217; *Om de Zuid: De Eerste Schipvaart naar Oost-Indië onder Cornelis de Houtman, 1595–1597, opgetekend door Willem Lodewycksz.* trans. and ed. Vibeke Roeper and Diederick Wildeman (Nijmegen: Sun Publishers, 1998) pp. 31–33; *European Americana* Vol. I pp. 229, 249, and Vol. II pp. 56, 77; Veldhuyzen-Brouwer, 'Bartolome de las Casas: La Brevissima Relacion de la Destruycion de las Indias' pp. 86–103.

with what enemie they are to deale, and so to beholde as it were in a picture or table, what stay they are like to bee at, when through their rechlesnesse, quarrels, controversies, and partialities themselves have opened the way to such an enemie: and what they may look for.

Cornelis Claeszoon dispensed with Miggrode's preface when he published a Dutch edition of the text in 1596. Yet he did retain the title of Miggrode's translation, which was equally suggestive in ideological terms—*The Mirror of Spanish Tyranny in which the Murderous, Scandalous and Horrible Deeds are recorded which the Spaniards have committed in the Indies*.¹⁴

The translation of Miggrode also formed the basis for the Latin edition that appeared two years later in Frankfurt-am-Main, entitled *Narratio Regionum Indicarum per Hispanos quosdam devastatarum verissima*. Its publisher was Theodore de Bry (1528–98), a Protestant refugee from Liège, who was famous for his illustrated editions of the journals of the European voyages of discovery, known as the *Grands et Petit Voyages*. His edition of *Brevisima Relación* contained seventeen etchings by Joost de Winghe, another refugee from the Southern Netherlands. De Winghe's illustrations were fully integrated with the running text and highlighted its most gruesome episodes. They were the main selling point of the *Narratio Regionum Indicarum*.¹⁵

Cornelis Claeszoon advertised the inventory of his bookshop in the pamphlet *Const ende Caert-Register* (Amsterdam, 1609), which is now in the Herzog August Library in Wolfenbüttel, Germany (Bc Sammelband 10 (2), unfoliated). The copper plates of De Winghe's engravings were offered for sale, along with the Dutch, French and Latin editions of *Brevisima Relación*:

The Spanish Tyranny with the map of the West Indies, all the histories in sixteen copper plates, by Bartolomé de las Casas, both in French and Dutch, fifteen stivers apiece. A book-length version is also available in Dutch and Latin.

¹⁴ Jacques Miggrode, *Tyrannies et cruautez des Espagnols perpetrees es Indes Occidentales* (Antwerp, 1579) p. ii verso; Miggrode, *The Spanish Colonie, or Briefe Chronicle of the Acts and Gestes of the Spaniards in the West Indies* (London, 1583) p. 2.

The full title of the Dutch edition of 1596 is *Spiegel der Spaenscher tyrannye in West Indien, waerinne verhaelt wort de moordadighe, schandelijcke ende growwelijcke feyten die deselve Spanjaerden ghebryuct hebben inde selve landen, mitsgaders de beschreyvinghe vander gheleghenthey, zeden ende aert vande selve landen ende volcken. In Spaenscher Talen beschreven door den E. Bisschop Don Fray Bartholome de las Casas, van S. Dominicus Oorden* (Amsterdam: N. Biestkens Jr. for C. Claeszoon, 1596).

¹⁵ De Bry, *Discovering the New World* pp. 7–10; Conley, 'De Bry's Las Casas'; *European Americana* Vol. I pp. 229, 249, and Vol. II pp. 56, 77.

Ever the businessman, Cornelis Claeszoon must have recognized the commercial potential of De Winghe's etchings. He bought the copper plates on one of his frequent visits to the Frankfurter Messe in the first decade of the seventeenth century and published a pictures-only edition of the *Mirror of Spanish Tyranny in the West Indies* in 1609. Although it lacked a running text, a short summary of the relevant episode in *Brevísima Relación* was found underneath each etching. The market for this kind of anti-Habsburg propaganda slackened somewhat during the Twelve Years' Truce, but picked up again at its expiration. In 1620, the Amsterdam printer Jan Evertsen Cloppenburg published a new edition of the *Mirror of Spanish Tyranny in the West Indies*, which combined De Winghe's etchings with the running text of the Cornelis Claeszoon editions of 1596 and 1607. The etchings were printed on separate sheets and dispersed throughout the running text. Cloppenburg discarded the prose captions that had appeared in the pictures-only edition of 1609. Instead, he inserted eight-line rhymes underneath each etching, which pithily summarized relevant episodes in *Brevísima Relación*. In addition, he published a companion volume, *The Mirror of the Spanish Tyranny in the Netherlands*, which was also illustrated in the vein of De Winghe. It went through at least twenty editions before the end of the seventeenth century. Both pamphlets were in fact usually bound together and sold as a double volume. Clearly, De Winghe's etchings were instrumental in making *Brevísima Relación* a bestseller in the Dutch Republic. They also created a powerful and easily recognizable visual framework for the Spanish Black Legend.¹⁶

¹⁶ Veldhuyzen-Brouwer, 'Bartolome de las Casas: La Brevisima Relacion de la Destruycion de las Indias' pp. 11–12, 17–20, 86–103; Swart, 'The Black Legend during the Eighty Years War' pp. 53–54; Lechner, 'En torno a la Brevisima Relacion de la destruccion de las Indias de Fray Bartolomé de las Casas'; Schmidt, *Innocence Abroad* pp. 111–122; E.W. Moes and C.P. Burger, *De Amsterdamsche Boekdrukkers en Uitgevers in de Zestiende Eeuw* (Amsterdam, 1907) vol. II pp. 197–209; P.A. Tiele, *Mémoire Bibliographique sur les Journaux des Navigateurs Néerlandais* (Amsterdam, 1867; reprinted 1960) pp. 5–6.

The pictures-only edition of *Brevísima Relación* is entitled *Den Spiegel van de Spaensche Tyrannie beelderlijcken afgemaelt* (Amsterdam, Cornelis Claesz, 1609).

For my research, I consulted *Den Vermeerderden Spiegel der Spaensche Tierannije geschiet in Westindien* (Amsterdam: Gillis Joosten Saeghman, 1664). It is a faithful reprint of the Cloppenburg edition of the *Mirror of the Spanish Tyranny in the West Indies*. The sixteen etchings and captions may be found on pages 14, 15, 19, 22, 29, 31, 33, 37, 39, 41, 43, 46, 61, 65, 67, and 75 of *Den Vermeerderden Spiegel*.

There were good reasons why De Winghe's haunting images should have defined Iberian conquest and colonization for his contemporaries. His drawing-style was typical of Dutch artists in the seventeenth century. It combined the Flemish tradition of landscape painting with such Renaissance inventions as the rules of perspective and the anatomically correct rendering of human figures. The background in nearly every etching was an unobtrusive little landscape that seemed more European than American, except for the depiction of native huts and wigwams. The foreground was the scene of the action: naked Indians, whose physiognomy was distinctly European, shared the stage with Spanish missionaries in mendicant frocks and Spanish *signores* flaunting their plus-fours. De Winghe stayed close to the text of *Brevísima Relación*. He invariably portrayed the Indians as gentle, unarmed victims of barbarous European invaders, for example. Five etchings showed Spanish soldiers setting fire to entire native villages or fanning the flames underneath countless gibbets, while two other etchings depicted Indians being fed alive to the dogs of the *signores*. The usurpation of indigenous sovereignty was the topic of seven of De Winghe's etchings. Their friendly reception in Mexico and Peru notwithstanding, the Spanish *conquistadores* proceeded to murder indigenous princes and tyrannize the latter's subjects. Other etchings testified to the hypocrisy of Spanish missionaries, who were more interested in quick conversions than in rescuing the Indians from enslavement and certain death. De Winghe delineated a missionary who was happy to baptize a moribund Indian baby, for example, yet remained completely unperturbed at the sight of a

I include an example of the eight-line rhymes that Cloppenburg inserted in his edition of the *Mirror of the Spanish Tyranny in the West Indies*. Compare *Vermeerderden Spiegel* p. 39 and figure 13 above:

O Nederlanders siet, siet hier als voor u oogen,
 d'ondraegelijcken last, die den moor moest gedoogen
 van't raeuwe Spaens gespuys, dat sich noch Christelijck noemt
 Maer loochent met der daet, hetgeen hun tonge roemt:
 Het arme slaefsche volck, dat sy soo grouwelijck smeten,
 En kreeg geen ander kost als doode lien tot eten.
 't Vleesch-huys van menschen vlees, hielden dees Spangiaerts straf,
 Hekies! Den eenen mensch, moest zijn des anders graf.

Similar captions may be found in the French edition of the *Mirrors of Spanish Tyranny*, viz. *Le miroir de la tyrannie espagnole perpetree aux Indes Occidentales* (Amsterdam: Jan Evertsz. Cloppenburg, 1620) and *Le miroir de la cruelle & horrible tyrannie espagnole perpetree au Pays Bas, par le Tyran Duc de Albe, & aultres commandeurs de par le Roy Philippe le deuxiesme*. (Amsterdam: Jan Evertss. Cloppenburg, 1620).

mother who had first strangled the infant and then committed suicide herself out of fear for the dogs of the *signores*. It all added up to a powerful indictment of Spanish conquest and colonization in the New World.¹⁷

The illustrated editions of *Brevísima Relación* put great emphasis on the innate cruelty of the Spanish and their subversion of true religion. The political message was clear: the Spanish had not just failed to convert the Indians to Christianity, but actively prevented their conversion by severely mistreating them. A case in point was De Las Casas' account of Spanish atrocities on the island of Hispaniola. In De Winghe's etching, an oversized Spanish soldier fanned the flames underneath an equally colossal gibbet, containing the corpses of thirteen diminutive and naked Indians, while a second Spanish soldier, again of immense proportions, dashed a screaming Indian baby against a stone wall. The caption informed Dutch readers that "these soul-murderers caught thirteen innocent folk, whom they hanged in honor of God and his Apostles." It confidently predicted divine vengeance, for "God in his justice will not lightly forget such wickedness." De Las Casas' description of Spanish outrages in Cuba received a similar treatment. De Winghe's etching showed a Franciscan friar, "an artless rascal," holding up his crucifix to an Indian prince about to be burnt at the stake. According to the caption, the cacique Hatuey had no need for such a last minute conversion, as he "would rather be in Hell, than stay with the Spanish." This made a deep impression on Dutch readers of *Brevísima Relación*, one of whom commented on the fate of the cacique Hatuey with the words: "out of fear he would rather be in hell than in heaven."¹⁸

Spanish usurpation of Indian sovereignty was another prominent theme in the illustrated editions of *Brevísima Relación*. It encouraged Dutch readers to interpret De Las Casas' account in the light of their

¹⁷ See figure 12 above. Some of De Winghe's powerful images have been reproduced in a recent English translation of *Brevísima Relación*. Compare Bartolomé de las Casas, *An Account, Much Abbreviated, of the Destruction of the Indies* ed. Franklin W. Knight and trans. Andrew Hurley (Indianapolis, IN: Hackett, 2003) pp. 10, 11, 20, 32, 40, 42, 49, and 81.

¹⁸ *Den Vermeerderden Spiegel* pp. 14, 22; De las Casas, *An Account, Much Abbreviated, of the Destruction of the Indies* pp. 8–12, 18–21; British Library, *Seer cort Verhael vande destructie van d'Indien vergadert deurden Bischof Don Fray Bartholome de las Casas* (s.l., 1578) BL 1061.c.12, fol. Dii-recto.

own war of independence and fed their suspicion that the King of Spain and Portugal was really out to establish a universal monarchy. Two of the most spectacular examples of Spanish tyranny in *Brevísima Relación* were, of course, the imprisonment of Montezuma, the “universal ruler” of the Aztecs until 1507, and the murder of Atahualpa, thirteenth King of the Incas until 1531. Their first meeting with the *conquistadores* was the subject of three of De Winghe’s etchings. Both Montezuma and Atahualpa were portrayed as dignified, munificent rulers, who received the *conquistadores* with full honors and showered them with “gifts of silver and gold and rich garments.” Two subsequent prints exposed the treachery of Hernán Cortéz and Francisco Pizarro. De Winghe depicted the moment, for example, when the flower of the Aztec nobility was brutally assaulted by Cortéz’ troops at a banquet in honor of the captive Montezuma—“all the noblemen were murdered,” an anonymous Dutch reader noted in the margin of his copy of *Brevísima Relación*. Another drawing showed the strangulation of Atahualpa at Pizarro’s orders. De Winghe vividly illustrated the fates of more obscure Indian princes as well. The rulers of Bogotá and Michoacán were depicted as hapless prisoners of the Spanish, tortured to death because of their ‘refusal’ to reveal the whereabouts of their reputed treasures. According to the caption, the Habsburg monarchs bore the full responsibility for the unspeakable tortures suffered by the ruler of Michoacán, “a freeborn prince”:

You, who call yourself the most catholic of kings, notice that your servants boast rather haughtily of your good nature; yea, you who are blind with your eyes open, just look at who praises you folly.

In contrast with De Las Casas’ belief in the redeeming powers of the Spanish monarchy—he successfully pleaded with Charles V and Philip II for better treatment of the Indians—the Dutch editors of *Brevísima Relación* were content to blame them for the usurpation of Indian sovereignty. Indeed, the Spanish conquest of the Aztec and

Though phrased differently, similar sentiments are voiced in the captions of etchings #1 and 4 in *Den Spiegel van de Spaensche Tyrannie beeldelijcken afgemaelt*, the pictures-only edition of *Brevísima Relación* published by Cornelis Claeszoon in 1609.

The British Library possesses an annotated copy of *Seer cort Verhael vande destructie van d’Indien vergadert deurden Bischoep Don Fray Bartholome de las Casas* (s.l., 1578). The shelf mark of the first Dutch edition of *Brevísima Relación* is BL 1061.c.12. The handwriting suggests a sixteenth or seventeenth century Dutch reader, who, unfortunately, did not put his name anywhere in the book.

Inca empires was considered *prima facie* evidence of their aspiration to be 'lords of all the world'.¹⁹

To recapitulate, the illustrated editions of *Brevísima Relación* made three important points about Spanish tyranny in the New World. The Indians were portrayed as civilized and pacifist peoples, quite capable of governing themselves without the benefit of Spanish tutelage. Indigenous rulers were seen to welcome the *conquistadores* with great respect and reverence, but to receive no kindness in return, instead losing their lands and lives. Spanish troops were shown to engage in the torture of freeborn Indian princes in an effort to extort gold and silver treasure. The Spanish missionaries who followed in their wake were depicted as completely indifferent to the physical wellbeing of their Indian flock, thus preventing genuine conversions to Christianity. And while De Las Casas had regarded Spanish royal authority as, potentially, a force for good—nothing else could stop the rapacious *conquistadores*—his Dutch editors declared Philip II guilty on all counts. The conquest of the Americas was proof of the King's insatiable desire for universal monarchy.

The illustrated editions of *Brevísima Relación* marked an important stage in the transformation of the Spanish Black Legend. When De Bry published his *Narratio* in 1598, the justification of the Dutch Revolt was less of an issue for the authorities in the United Provinces. Instead, the debate had shifted to the political and economic implications of nearly thirty years of continuous warfare. On which terms should the Dutch make peace with their Habsburg enemies? Could the King of Spain and Portugal be trusted to respect their hard-won independence? Even if he did not act in bad faith, would a peace or truce treaty serve their economic interests? The spectacular economic growth of the 1590s suggested that war, not peace, was good for Dutch trade. Should the United Provinces perhaps forego a messy compromise with the Habsburg enemy and seek total victory instead, preferably by attacking the Iberian colonial empires? Dutch merchants

¹⁹ *Den Vermeerderden Spiegel* pp. 31, 33, 41, 61 and 65; De las Casas, *An Account, Much Abbreviated* pp. xxix–xxxiv, 30–38, 43–47, 72–86; Tom Conley, 'De Bry's Las Casas' pp. 111–112, 118; British Library, BL 1061.c.12, fol. f-iii-recto; Anthony Pagden, *Lords of All the World: Ideologies of Empire in Spain, Britain and France, c. 1500–c. 1800* (New Haven and London: Yale UP, 1995) pp. 11–62; see also figure 11 above.

Though phrased differently, similar sentiments are voiced in the captions of etchings #7, 8, 13, 14, 17 in *Den Spiegel van de Spaensche Tyrannie beeldelijcken afgemaelt*.

could not put the Indies trade on a firm footing unless indigenous peoples were freed from Portuguese and Spanish tyranny. The fledgling United Provinces stood to gain as well from a military and naval offensive against the Iberian colonial empires. The King of Spain and Portugal would have little choice but to withdraw some of his troops from the Low Countries in order to fight off Dutch interlopers in the East Indies. Assuming that the VOC held its own, the King might well lose a large part of his colonial revenues, which should further reduce his capacity to wage war against the United Provinces. Conversely, overseas trade and privateering increased the tax revenues of Holland and Zeeland and thus benefited the Dutch war effort. The economic and ideological aspects of the war against Spain had already become inextricably intertwined in the preface of *Description of a Voyage made by Certaine Ships of Holland into the East Indies* (London, 1598):

if they continue in their enterprises begun, they will not only draw the most part of the Indian treasures into these Countries, but thereby disinherit & spoyle the Countrie of Spayne of her principall revenewes, and treasures of marchandises and trafiques, which she continually useth and receyueth out of these countries, and out of Spayne are sent into the Indies, and so put the King of Spaine himselfe in minde of his foolish devise which hee useth for a posie touching the new world, which is Non sufficit orbis, like a second Alexander Magnus, desiring to rule over all the world, as it is manifestly knowne.²⁰

These issues were uppermost in Grotius' mind when he wrote *De Jure Praedae*, painting the darkest picture possible of Iberian tyranny in the East Indies.

III *Rhetorical Strategies in De Jure Praedae*

Judging by *Annales et Historiae*, his massive history of the Dutch war of independence that was published posthumously in 1657, Grotius must have been quite familiar with *Brevísima Relación*. In his account of the Peace and Truce negotiations of 1607–1609, he expressed his

²⁰ *Verhael vande Reye in de Hollandtsche Schepen ghedaen naer Oost Indien haer avontuer ende succes* (second edition; Middelburg: Barent Langhenes, 1597), translated into English as *Description of a Voyage made by Certaine Ships of Holland into the East Indies* (London, 1598). The pamphlet's introduction was reprinted in *De Eerste Schipvaart der Nederlanders naar Oost-Indie onder Cornelis de Houtman, 1595–1597* ed. G.P. Rouffaer en J.W. IJzerman, 3 vols. (Den Haag, 1915) vol. II p. 108.

disdain for the pamphleteers who had opposed any kind of treaty between Philip III and the Dutch Estates General. He considered them dangerous rabble-rousers, who had put excessive emphasis on

the cruelty and perfidy which the Spanish have always committed in America, or against those of Granada and Aragon, but recently even in the Netherlands.²¹

Grotius was not a little disingenuous: he conveniently ignored his own Lascasian rhetoric in *De Jure Praedae*, which borrowed just as heavily from *Brevísima Relación* as the pamphlets written in opposition to the Twelve Years' Truce. He made much of the cruelty and barbarism of the Spanish and Portuguese, their subversion of true religion and their usurpation of native sovereignty—the three dominant themes of *Brevísima Relación*. Let us take a closer look at his rhetorical strategies in *De Jure Praedae* and examine his treatment of each of these themes.

Grotius constructed chapter eleven of *De Jure Praedae* as part history, part lamentation of Portuguese 'savagery' in the East Indies, citing example after example of Portuguese harassment of Dutch merchants and their indigenous trading partners. The Portuguese were "men of bad faith, assassins, poisoners, and betrayers," so much was clear from the terrible fate that had befallen the crew of Van Neck at Macao. In a direct reference to the Spanish Black Legend, Grotius ventured to draw a comparison between Portuguese abuses in Asia and Spanish outrages in the Americas. In his view, the Spanish enjoyed the questionable honor of being "much more notable for violence," while the Portuguese outdid them in "perfidy." For one thing, the Portuguese had tried to incite Muslim rulers against his compatriots by vilifying the latter in every possible manner. Dutch merchants and mariners had been denounced as English pirates, for example, allegedly lacking every respect for law and religion. It had even been suggested that the Dutch were consumed by drunkenness and "perverted lust," and used trade as a cover for establishing "their own sovereignty" in the East Indies. If a smear campaign was not enough, native princes had received orders from the Portuguese to bar the Hollanders from their ports and lands. The rulers of Johore, Aceh, Bantam and Ternate had flouted these dictates at their peril

²¹ Hugo Grotius, *Nederlandsche Jaerboeken en Historien* trans. Joan Goris (Amsterdam, 1681) pp. 564–565.

and faced brutal attacks by the Portuguese naval forces. The *armada* of André Furtado de Mendoza had already lain waste the island of Ambon in the summer of 1602. According to Grotius,

the inhabitants were subjected to the same savage treatment that the people of the Low Countries had often suffered at the hands of the Spaniards. Slaughter was practised without distinction of age or sex; little children and women were slain indiscriminately. Nor were they merely slain; for some of the Portuguese cut off the limbs of young children before the very eyes of the parents, and others searched with their swords both the wombs of pregnant women and bodies that were unquestionably innocent.

Grotius could not have derived this level of detail from the sworn statements of Dutch merchants and mariners that the VOC directors put at his disposal in October 1604. The gruesome imagery was borrowed to a large extent from *Brevísima Relación*.²²

Portuguese usurpation of indigenous rule was a prominent theme in chapters eleven through fifteen of *De Jure Praedae*. Grotius was quick to note, for example, that Malacca rightfully belonged to the Sultan of Johore, not the Portuguese. In his view, “the extraordinary renown of the Iberians” had filled native peoples with fear and awe. Since the Hispanic nations were considered “the conquerors of

²² Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 182–183, 185–187, 191, 195–202, 207–214, 209 (quotation).

The Viceroy of Goa had sent an *armada* to Java and the Spice Islands for no other reason than to bring the natives back into line. At the *armada's* arrival in Ambon, native leaders went over to the Banda Islands and entreated the Dutch captain Wolphert Harmenszoon to chase away the Portuguese. He learnt that the Portuguese had “acted with great ferocity when they captured several villages, murdering women and children, cutting them in pieces, disemboweling them, and committing other kinds of tyranny,” which moved him with great pity and anger. Yet the commercial interests at stake—three of his ships had already received precious cargoes of spices—prevented him from coming to the assistance of the Ambonese.

Grotius closely followed the sworn statement of Wolphert Hermanszoon in his grisly description of the events at Ambon. Yet the level of detail owed just as much, if not more, to De Las Casas' account of Spanish atrocities in the Americas. When an inventory of Grotius' library was drawn up in March 1620, it confirmed his possession of “a large amount of small and blue books of little value.” A Dutch edition of *Brevísima Relación* may well have been one of them.

Compare Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 177, 182, 209; Dutch National Archives, *Staten Gen. 12551.21, Loketkas processen nr. 21* (unfoliated); Coolhaas, ‘Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*’ pp. 486, 490, 522; P.C. Molhuysen, ‘De bibliotheek van Hugo de Groot in 1618’, *Mededelingen der Nederlandsche Akademie van Wetenschappen, Afdeling Letterkunde*, New Series, Vol. 6, no. 3 (1943) p. 60.

almost every region of the earth,” Asian merchants did not even dare to leave port without a Portuguese license or passport. By combining martial prowess with petty intimidation, the Portuguese were able to “hold possession of islands and shores over which they had not been able to establish true dominion.” Yet they committed a grave injustice by denying freedom of trade and navigation to all other civilized and independent nations. The Dutch and the Indians should make common cause in order to overthrow “the despotism which has spread to every quarter of the world.” Grotius realized that it would not be an equal partnership. Only the Dutch could vindicate freedom of trade and navigation by means of the “scattered flight, the disastrous defeat, and the capitulation of the Portuguese”—witness the naval victories of Wolphert Harmenszoon and Jacob van Heemskerck. It was no wonder, then, that many Asian rulers had already allied themselves with the VOC and that the sultan of Aceh had even sent emissaries to The Hague, assigning to the Hollanders “the role of saviours of the Orient.”²³

In chapter thirteen of *De Jure Praedae*, Grotius denounced the Iberian missions in the East and West Indies as subverting true religion. He was faced with the difficulty that neither the VOC, nor the regional trading companies that preceded it, had made much of an effort to convert indigenous peoples to Christianity. The Spanish Black Legend offered him a way out. *Brevísima Relación* helped to create the stereotype of the hypocritical Catholic missionary, a man so preoccupied with deathbed conversions to Christianity that he failed to attend to the material and spiritual wellbeing of his Indian flock.

²³ The Acehnese envoys traveled to the Dutch Republic as passengers aboard the Zeeland merchantman *Lioness*, which arrived in the town of Middelburg in the summer of 1602. The head of the Acehnese delegation, Abdoel'hamid, died soon after his arrival in Zeeland. He was buried in the Church of St. Peter in Middelburg on 10 August 1602. The other members of the delegation, Sri Mohammed, ‘Admiral’ of Aceh, and a nobleman, Mir Hasan, continued on to the military headquarters of Prince Maurice, who received them in audience on 4 September 1602. The Acehnese envoys remained in the Dutch Republic for another fifteen months, visiting various towns and provinces. Their expenses were defrayed by the Amsterdam VOC directors. They returned to Aceh aboard the fleet of Steven van der Haghen, which sailed in December 1603.

Compare Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 213, 216–282, 333–334, 345; J.J.F. Wap, *Het Gezantschap van den Sultan van Achin* (Rotterdam, 1862) pp. 17–30.

Grotius may well have had this archetypal image in mind when he equated true religion with the humane treatment of Indians:

Care must be taken to keep men safe, lest the hope of converting them (as the Church Fathers were formerly wont to say) should perish with their bodies. The Indian peoples must be shown what it means to be a Christian, in order that they may not believe all Christians to be as the Spaniards are. Let those peoples look upon religion stripped of false symbols, commerce devoid of fraud, arms unattended by injuries. Let them marvel at the faith which forbids that even infidels should be neglected. In achieving these ends, we shall be preparing men for God.

In other words, there was no urgent need for the VOC directors to employ Protestant ministers who could baptize the natives or teach them the fine points of Christian theology. For the purpose of “preparing men for God,” it was sufficient to liberate indigenous peoples from Portuguese tyranny and trade with them in an honest and upright fashion. The Spanish Black Legend had once again served Grotius well in justifying a Dutch empire of trade that was based on alliances with infidel rulers, rather than on Christian conquest and colonization.²⁴

2.3 *A Portuguese Conspiracy in the East Indies?* *Investigating the Sources of De Jure Praedae*

In the previous section we have seen that Grotius was familiar with Dutch editions of *Brevísima Relación* and made explicit references in *De Jure Praedae* to its dominant themes—the inhuman cruelty of the Spanish and Portuguese, their subversion of true religion and their usurpation of native sovereignty. Yet these references added up to something more than a self-serving rhetorical ploy. Grotius did not conjure the Spanish Black Legend out of a hat, but simply endorsed a conspiracy theory that was already present in the fifteen sworn

²⁴ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 316, 331, 340.

At the end of his life, Grotius conducted a scholarly debate with Johannes de Laet about the origins of the Amerindians, which again brought out his notions of Indian civilization and the sovereignty and independence which native peoples had enjoyed prior to the Spanish conquest of the Americas. Compare Benjamin Schmidt, ‘Space, Time, Travel: Hugo de Groot, Johannes de Laet, and the Advancement of Geographic Learning’, *Lias* 25 (1998) pp. 177–199.

statements and other source materials that he had received from the VOC directors in October 1604. As indicated by the title, “book treating of the cruel, treasonous and hostile procedures of the Portuguese in the East Indies,” the attesters firmly believed in the existence of a nefarious Portuguese plot to oust them from the East Indies. In their train of thought, the executions at Macao and the Portuguese attacks on Bantam and the Spice Islands should not be considered isolated incidents. They were manifestations of a worldwide conspiracy against Dutch trade and navigation, involving the King of Spain and Portugal, the Viceroy at Goa, the *capitão-mór* of Malacca, the magistrates of Macao and, most importantly, a fifth column of Portuguese renegades. As the military and political advisers of Asian rulers, Portuguese renegades were in an ideal position to incite Javanese princes against Dutch merchants, especially when supported by Portuguese envoys from Goa or Malacca. Their alleged machinations had caused great trouble as early as Cornelis de Houtman’s voyage to Bantam (1595–1597). The attesters derived some of their information from the Pangoran of Bantam and the Sultan of Aceh, who had opted for a Dutch alliance following the punitive expeditions of Lourenço de Brito in 1598 and André Furtado de Mendoza in 1601. In their eagerness to please their new allies and explain away previous ‘misunderstandings’, both rulers were happy to confirm the attesters’ worst suspicions about the Portuguese. The result was a radical reinterpretation of the early Dutch voyages to the East Indies, which Grotius accepted uncritically and incorporated into *De Jure Praedae*.

As a case study, we will examine various written accounts of De Houtman’s voyage to Bantam and discover that, as time went by, the alleged Portuguese plot took on ever greater proportions in the minds of Dutch merchants and mariners. The journals that were printed right after De Houtman’s homecoming in 1597 blamed treacherous Javanese rulers and De Houtman’s own incompetence for the near-failure of the first Dutch voyage to the East Indies. It is unclear whether Grotius read *Verhael vande Reyse* (Account of the Voyage), published in Middelburg in 1597, or *Eerste Boeck* (First Book), published in Amsterdam in 1598, prior to writing *De Jure Praedae*. If he did, he must have decided that the attestations of junior merchant Jan Janszoon Carel Jr. and midshipman Cornelis van Eemskerck were more congenial to his purpose. According to Van Eemskerck, the difficulties experienced by De Houtman and his crew

had been the result of coordinated Portuguese attacks in various Javanese ports in the summer of 1596. Allegedly, Portuguese renegades had first fomented trouble between Cornelis de Houtman and the Pangoran of Bantam and then fanned out from Bantam to every port along Java's northern coast in order to incite other indigenous rulers against the Dutch. It was an outrageous fabrication that Grotius swallowed whole and reproduced in great detail in chapter eleven of *De Jure Praedae*. In this section, we will first describe the events in Bantam in the summer of 1596 and then reconstruct the making of a Portuguese conspiracy in the minds of Dutch merchants and mariners.

The first Dutch voyage to the East Indies was not a happy one. Of the four vessels and 249 crew that put out to sea on 2 April 1595, only three ships and 89 crew returned to Holland at the beginning of August 1597. This was partly the fault of the directors of the Faraway Company (*Compagnie van Verre*), who had failed to appoint an overall commander. According to their instructions, Cornelis de Houtman was just the most senior merchant aboard the fleet. Since De Houtman and master pilot Gerrit van Beuningen were constantly at loggerheads with each other, De Houtman did not succeed in asserting his authority until the fleet reached the coast of Sumatra in June 1596. Van Beuningen was imprisoned aboard the flagship *Mauritius* on the grounds that he had hatched a conspiracy against De Houtman, an accusation made, interestingly enough, by Cornelis van Eemskerck. Van Beuningen's captivity did nothing to improve De Houtman's standing with the fleet's officers and sailors. De Houtman himself was briefly incarcerated at the end of December 1596, while the fleet sailed along the northern coast of Java. The sailors harbored a grave suspicion that De Houtman had poisoned a longstanding opponent of his, pilot Jan Mullenauer. Since they could not prove their case—Mullenauer probably died of some tropical disease—De Houtman was released after just a few days below deck. The crew's distrust of De Houtman did not just cause difficulties on the journey home—even Grotius noted the "mutinies among the mariners" in his *Annales et Historiae*—but also proved fertile ground for conspiracy theories. As we shall see below, the seeds of distrust sprouted in most of the journals of the First Voyage.²⁵

²⁵ Terpstra, "De Nederlandsche Voorcompagnieën" pp. 335–336, 345, 351–352; Grotius, *Nederlandsche Jaerboeken en Historien* p. 309.

It will come as no surprise to the reader, however, that De Houtman's ill-starred voyage can be explained quite satisfactorily without reference to conspiracy theories. In Bantam, De Houtman found himself caught between a rock and a hard place, lacking the money to buy sufficient quantities of pepper and incapable of imposing his will on the man who regulated the pepper market, the Pangoran of Bantam. At De Houtman's first visit to the Bantamese court, the Pangoran accepted the "friendship and alliance" offered by "the King of Holland"—as Prince Maurice was known to Asian rulers—and readily agreed to a "steadfast league of friendship and alliance with the Illustrious Prince aforesaid and Your Honor." The treaty that was signed on 1 July 1596 gave De Houtman the right to "trade, buy, and sell in our port as often as Your Honor sees fit," without being done "any injury or injustice." De Houtman immediately established a Dutch trading post at Bantam and stocked it with costly goods and merchandise. The most important customer was, of course, the Pangoran himself. The Dutch factors gave him everything he wanted on credit—velvet, *laken* (high-quality wool cloth), coral and crystal glasses. Accounts would be settled at the time of the new pepper harvest, so they promised themselves. Although the *sabandar* (port master) warned him that pepper prices had hit an all-time low, De Houtman decided to wait for the new harvest because of the unfavorable exchange rates, a situation that could not be remedied without the help of the Pangoran, who positively refused, however, to interfere with the market. De Houtman tried to buy small quantities of pepper over the course of the summer, but to little avail. His patience began to wear thin: the new pepper harvest was not forthcoming, while the Pangoran had failed to pay any of his bills. On 27 August, De Houtman went ashore to demand payment from the Pangoran. The longboat *Little Dove* (*Duyfken*) sounded the harbor of Bantam the following day in order to put greater pressure on the authorities. Yet De Houtman had overplayed his hand. He was so imprudent as to go ashore again and tell the Pangoran to his face that "it was unfair of such a Prince not to honor his promise." He even threatened to bombard the town and seize the richly laden Portuguese junks in Bantam harbor if he did not receive satisfaction within twenty-four hours. The Pangoran acted quickly and imprisoned both De Houtman and twelve other Dutchmen. In all probability, the ruler wanted to keep them hostage until the Portuguese junks were well on their way to Malacca. Yet the fleet's council of

naval officers (*Brede Raad*) proved unwilling to do his bidding. The inhabitants of Bantam woke up to the roaring of cannons on 5 September. The Dutch fleet chased the Portuguese junks up and down the harbor and captured three of them, while setting fire to a fourth. Although the fleet's firepower was superior to anything the Pangoran could muster, the bombardment could hardly be called a success, as the Dutch guns did not carry far enough to threaten the town. A severe water shortage soon made itself felt aboard the four vessels, which forced them to set sail for Sumatra on 14 September. When the fleet reappeared before Bantam over a fortnight later, negotiations got underway with the Pangoran. De Houtman persuaded him to release all his Dutch prisoners for a ransom of 2,000 reals of eight. The Pangoran even agreed to a new commercial treaty, which was signed on 11 October 1596. The Dutch were permitted to trade in Bantam as before, provided they refrained from "encumbering the traders who visit this port, both by sea and on land, notably the Portuguese, Chinese, Javanese and other merchants." The fleet's factors bought some more pepper in Bantam, but remained constantly on their guard. When an ambassador from Malacca reached Bantam on 25 October, De Houtman assumed the worst—rumor had it that the Pangoran was not indifferent to Portuguese bribes—and immediately recalled Cornelis van Eemskerck and four Dutch merchants who were still ashore. The fleet put out to sea the following day in an attempt to blockade Bantam harbor. Reports of an alarming nature had meanwhile reached De Houtman: the Pangoran was about to launch his warship in order to surprise the Dutch vessels. De Houtman took no chances and set course for Jakarta on 6 November. The first Dutch attempt to establish trading relations with Bantam had been an unmitigated disaster.²⁶

²⁶ Terpstra, "De Nederlandsche Voorcompagnieën" pp. 338–343; Willem Lodewycksz. *Eerste Boeck* (Amsterdam, 1598), as reprinted in *De Eerste Schipvaart der Nederlanders naar Oost-Indie onder Cornelis de Houtman* Vol. I p. 88; *Verhael vande Reye in de Hollandsche Schepen ghedaen naer Oost Indien haer avontuer ende succes* (second edition; Middelburg: Barent Langhenes, 1597), translated into English as *The Description of a Voyage made by Certaine Ships of Holland into the East Indies with Their Adventures and Successes* (London: John Wolfe, 1598) fol. 26v.

More issues were at stake in De Houtman's conflict with the Pangoran of Bantam than just the latter's indebtedness to the Dutch factory and his promises (so De Houtman thought) of ample pepper deliveries. The Pangoran had decided on 27 August 1596 to suspend the trade in rice, the one commodity that the Dutch needed for their voyage home.

Although the Portuguese deserved some of the blame—they certainly tried to incite the Pangoran against their new competitors for the Bantam pepper trade—midshipman Franck van der Does realized that his compatriots had been at fault as well. He was quite explicit on this point in ‘Cort Verhael’ (Short Story), which he wrote shortly after his homecoming in September 1597. According to Van der Does, “we fell into disgrace with the inhabitants and completely lost their good opinion” due to the sounding of Bantam harbor and the “inappropriate proposals” which De Houtman made to the Pangoran. As if that was not enough,

[w]e discredited ourselves even further when we captured and imprisoned some inhabitants and even arrogantly braved the town, blockading the harbor and firing our ordnance, defying the town with as much spitefulness and rude behavior as we could muster, for which reason our voyage was sufficiently spoiled.²⁷

Van der Does was quite alone in his soul-searching. The Portuguese fulfilled the role of bogeymen in nearly every other journal of the First Voyage, including the attestations that Grotius received from the VOC directors.

As time went by, the Portuguese plot to oust the Dutch from the East Indies assumed greater proportions in the minds of Dutch merchants and mariners. The anonymous author of *Verhael vande Reyse* stated as a matter of fact in his dedicatory letter that the Portuguese had “alwayes sought to hinder and intercept other nations from having any part of their glorie.” His account of De Houtman’s trials and tribulations was predicated on the assumption that the Pangoran of Bantam had accepted one thousand reals of eight from an envoy of the *capitão-mór* of Malacca, “desiring him to forbid us both his towne and streame, that wee might not traffique there.” Willem Lodewijckszoon, a junior merchant aboard De Houtman’s fleet, arrived at a similar conclusion in his journal. According to the *Eerste*

Three treaties are extant between De Houtman and the Pangoran of Bantam, which are dated 1 July, 12 July and 11 October 1596, respectively. All three are reproduced in J.E. Heeres, ‘Corpus Diplomaticum Neerlandico-Indicum’ (Part I, 1596–1650) in: *Bijdragen tot de Taal-, Land- en Volkenkunde van Nederlandsch-Indië* Seventh Series, Part Three (The Hague: Martinus Nijhoff, 1907) pp. 3–7.

²⁷ Franck van der Does, *Cort Verhael* (probably written in Sept. 1597, but unpublished until the 19th century), printed in *De Eerste Schipvaart der Nederlanders naar Oost-Indië onder Cornelis de Houtman*, Vol. II, p. 296.

Boeck, the Pangoran of Bantam consented to the murder of Pedro de Taydo, a Portuguese merchant who had kept De Houtman abreast of market developments and Bantamese court gossip, allegedly much to the distress of his compatriots. Willem Lodewijckszoon also implied that the Pangoran had made preparations for an attack on the Dutch fleet in early November 1596 at the instigation of the Portuguese. *Verhael vande Reyse* and *Eerste Boeck* did not explain every setback experienced by De Houtman in terms of a Portuguese conspiracy. Although *Eerste Boeck* darkly hinted that Bantamese junks had allegedly followed the Dutch fleet along the Javanese coast, there was no such suggestion in *Verhael vande Reyse*. A full-fledged conspiracy theory had to await the sworn statements of Cornelis van Eemskerck and Jan Janszoon Carel Junior.²⁸

The attestations of Cornelis van Eemskerck and Jan Janszoon Carel Junior were clearly written with the benefit of hindsight, exonerating the Pangoran of Bantam from past offenses. Both men assumed that the *capitão-mór* of Malacca had sent his spies to every port along Java's northern coast in order to incite local rulers against De Houtman and his fleet. Their suspicions had been 'confirmed' by conversations with the Pangoran, who had allied himself with the Dutch following Jacob van Neck's arrival in Bantam in December 1599. Significantly, both Van Eemskerck and Carel Jr. had signed up for the second Dutch voyage to the East Indies, while Van Eemskerck had returned to Bantam a third time in September 1600. These experiences clearly influenced their recollections of the First Voyage. Carel Jr. put his unpublished journal at the disposal of the VOC directors in October 1604. They had scribal copies made of his account of the debacle at Bantam and De Houtman's eventful voyage along Java's northern coast, which formed the basis of Grotius' narrative in *De Jure Praedae*. Van Eemskerck simply elaborated on Carel Jr.'s journal and admitted as much, declaring that "everything put in writing by the honorable merchant Jan Janssen Carel Junior he had found to be so." In addition, he explicitly stated that he had discussed the events of the First Voyage with the Pangoran of Bantam and the Tumenggung of Jakarta. He may well have

²⁸ *Description of a Voyage made by Certain Ships of Holland into the East Indies* f. 19r, 25v, 26v, 28r–29v; *De Eerste Schipvaart der Nederlanders naar Oost-Indie onder Cornelis de Houtman* Vol. I pp. 87, 160–171 and Vol. II p. 107.

accompanied Van Neck on his official visits to the Bantamese court in December 1598 and January 1599, for example. When Van Neck took leave of the Pangoran on 10 January, the ruler was eager to please his new allies and solemnly declared that

henceforth he would be friends with us, as he had provoked the enmity of the Portuguese by providing cargo for our ships. He had also received reliable information from Goa and Malacca that preparations were made to engage us in battle. He said that the Portuguese had refused him three thousand reals of eight, which had been promised to him as a ransom for some prisoners, on the pretext that he had admitted our ships to his roadstead.

Van Eemskerck sympathized with the Pangoran's predicament and projected it back on his account of the First Voyage. He antedated the Pangoran's falling-out with the Malaccan envoy, for example, and made much of Portuguese attempts to punish the ruler for his change of heart. In other words, he interpreted the events of the First Voyage through the lens of culprits-turned-allies, foremost among them the Pangoran of Bantam.²⁹

The punitive expeditions of the Portuguese left the Pangoran no choice but to ally himself with the Dutch. The *armada* of Lourenço de Brito encountered little resistance, for example, when it tried to

²⁹ Coolhaas, "Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*" pp. 440–442, 444, 447, 449, 516–517; entry in Van Neck's journal, January 10, 1599, as reproduced in *De Tweede Schipvaart der Nederlanders naar Oost-Indië onder Jacob Cornelisz. van Neck en Wybrant Warwyck, 1598–1600* J. Keuning ed. 5 vols. (The Hague; Martinus Nijhoff, 1938–1949) Vol. I. p. 83.

Van Eemskerck served as a senior merchant aboard the fleet of Jacob Wilkens when he visited Bantam for a third time in September 1600. He continued on to Ambon with two ships, where he came to the rescue of Faraway Castle and the inhabitants of Hitu. The Portuguese garrison at Ambon had used every opportunity to harass the Dutch contingent at Faraway Castle, along with its indigenous allies. No doubt Van Eemskerck's unpleasant experiences at Ambon reinforced his belief in a widespread and enduring Portuguese plot to oust the Dutch from the East Indies. He was no stranger to conspiracy theories, of course. The pilot of the First Voyage, Van Beuningen was imprisoned on the basis of Van Eemskerck's allegation that he had conspired to kill De Houtman.

Van Eemskerck's narrated his experiences in the "book treating of the cruel, treasonous and hostile procedures of the Portuguese in the East Indies." His account of the First and Fourth Voyages is spread over two attestations. According to the first attestation, the Pangoran and the Portuguese ambassador fell out with each other before De Houtman's fleet had reached Jakarta in November 1596. Yet the sources that predate Van Eemskerck's attestations, like *Verhael vande Reyse* and *Eerste Boeck*, make no mention of any discord between the Pangoran and the Malaccan envoy. Compare *Description of a Voyage by Certaine Ships of Holland into the East Indies* f. 26v–28r and *De Eerste Schipvaart der Nederlanders naar Oost-Indie onder Cornelis de Houtman* Vol. I p. 158.

blockade Bantam harbor in the spring of 1598. It was the change of monsoon that forced De Brito to retreat to Malacca, not indigenous military might.³⁰ When Van Neck reached Bantam in December 1598, the Pangoran decided to throw in his lot with the Dutch, whose well-armed merchantmen could be trusted (so he thought) to repulse a second Portuguese attack. In these circumstances, the Pangoran had every reason to blame the Portuguese for past ‘misunderstandings’ between himself and De Houtman. Both Carel Jr. and Van Eemskerck were only too happy to believe him and, at one remove, Grotius.

The presence of Portuguese renegades in Bantam made the conspiracy theories of Carel Jr. and Van Eemskerck all the more convincing. Yet the Portuguese renegades were not exactly the secret agents of Malacca and Goa which Carel Jr. and Van Eemskerck imagined them to be. Rather, they were the protagonists of the military revolution that swept monsoon Asia in the sixteenth century. The rise of Portuguese power in the East Indies had forced native rulers to review their military and naval strategies and copy European innovations in warfare as much as possible. Portuguese pilots, shipwrights, gunners and gun-founders were in heavy demand all over monsoon Asia. Indigenous rulers paid them handsomely for their services as military advisers or as builders of European-style warships and fortifications. The Portuguese *diaspora* included pirates and private merchants as well, who preferred to operate in areas outside Goa’s sphere of influence. Dutch merchants and mariners tended to heap them together with the renegades who served native rulers. More importantly, it was a vexed question whether these renegades, merchants and pirates could be trusted or whether they should be shunned as a Portuguese fifth column. Such fears were not unreasonable. It has been established for the Bay of Bengal, for example, that quite a few Portuguese adventurers used “the positions they had

³⁰ *De Tweede Schipvaart der Nederlanders naar Oost-Indië* Vol. I pp. xxxiv–xxxvii and appendices 4–12; Sir William Foster, *England’s Quest of Eastern Trade* (London, 1933) pp. 136–141.

De Brito was so desirous of plunder—at least two Chinese junks were taken—that he completely botched his attack on Bantam. Indeed, a Bantamese fleet of war prows managed to surprise De Brito at a watering place near Jakarta and capture three of his galleys, all filled with loot. De Brito had clearly failed to cow the Pangoran of Bantam when he returned to Malacca at the changing of the monsoon in July 1598.

obtained in indigenous society, or the concessions they had secured from local rulers, to extract rewards and honors from the mother country.” It stands to reason that they acted in similar ways in other parts of Asia, if and when their own self-interest coincided with the policies of the Portuguese colonial government, better known as the *Estado da India*. Yet it is hard to imagine that the viceroy at Goa or the *capitão-mór* of Malacca would leave it to these fickle allies to oust the Dutch from the East Indies. As for the First Voyage, the Portuguese renegades at Bantam certainly tried to make life difficult for De Houtman and cleverly exploited his strained relationship with the Pangoran. Yet they were unlikely candidates for masterminding the various mishaps that punctuated his voyage along Java’s northern coast. It was a conspiracy that existed in the minds of Carel Jr. and Van Eemskerck only³¹

There were indeed fundamental differences between the attestations of Carel Jr. and Van Eemskerck on the one hand and *Verhael vande Reyse* and *Eerste Boeck* on the other in their assessment of the threat posed by Portuguese merchants and renegades at Bantam. According to *Eerste Boeck*, six Portuguese merchants invited themselves aboard the flagship *Mauritius* when it entered Bantam harbor on 22 June 1596. They were relieved to find that De Houtman was no English buccaneer and recollected with horror the voyage of Captain James Lancaster, who had caused “great destruction and disturbance in Malacca Straits” in the autumn of 1592. De Houtman quickly reassured his Portuguese guests that he had come to Bantam for strictly commercial purposes. Judging by *Eerste Boeck*, he must have considered them a rather harmless lot. Their main concern was to persuade him not to present himself as an envoy of Dom Antonio, the pretender to the Portuguese throne supported by the Dutch Republic:

³¹ Geoffrey Parker, *The Military Revolution: Military innovation and the rise of the West, 1500–1800* (Cambridge: Cambridge UP, 1988; paperback edition, 1989) pp. 115–145, especially pp. 121–131; G.V. Scammell, ‘European Exiles, Renegades and Outlaws and the Maritime Economy of Asia, c. 1500–1750,’ *Modern Asian Studies* XXVI, no. 4 (Cambridge, 1992) pp. 641–661, particularly p. 658; Paulo Jorge de Sousa Pinto, ‘Captains, Sultans and liaisons dangereuses: Melaka and Johor in the Late Sixteenth Century’ pp. 139–142; Timothy P. Barnard, ‘Mestizos as Middlemen: Tomas Dias and his Travels in Eastern Sumatra’ in: *Iberians in the Singapore-Melaka Area (16th to 18th century)*, ed. Peter Borschberg, South China and Maritime Asia Vol. 14 (Wiesbaden: Harrassowitz Verlag, 2004) pp. 147–160.

lest it would cause rebellion and unrest among them, which would undoubtedly be used as an excuse by the renegades who live in Pegu, Bengala, Ternasserin, Martaban, or on the Coromandel Coast, in short, throughout the East Indies, and which would immediately earn them many supporters; they were not to be trusted, however, for they might easily engage in conspiracies in order to be recalled from exile.

Willem Lodewijckszoon must have begun to question the motives of De Houtman's guests when revising his journal for publication. He interpolated that the six merchants had taken leave of De Houtman "with pretended friendship." It was a logical inference, given the fact that he blamed Portuguese court intrigue for De Houtman's falling-out with the Pangoran.³²

The anonymous author of *Verhael vande Reyse* took a more sanguine view of the renegade threat. He made no mention of the meeting aboard the *Mauritius*, for example. Instead, he recounted the visit that the Sultan of Demak had allegedly paid to De Houtman a week later, explaining that "this Emperour had conspired against us with the *Portingalles*." If true, their unholy alliance had met with little success. It was the Pangoran, in fact, who explicitly warned De Houtman against the sultan, as being "very licentious and evill minded." The sultan left Bantam less than three weeks after De Houtman's arrival, in the realization that "his devise would not take place." Clearly, then, the author of *Verhael vande Reyse* regarded the renegade threat as strictly limited to Bantam and as hardly an invincible one. That assumption changed in the attestations of Carel Jr. and Van Emskerck.³³

There are significant differences between the attestation of Carel Jr. and *Eerste Boeck* in their respective descriptions of De Houtman's first meeting with the Portuguese merchants who were resident at Bantam. According to Carel Jr., the merchants invited themselves aboard the *Mauritius*, for no other reason than to discourage De Houtman from trading at Bantam. They allegedly warned De Houtman neither to trust the Javanese nor to expect much in the way of pepper purchases, as there would be no pepper left at Bantam once they had received the four or five hundred bags already reserved for them. The Dutch reaction was predictable. Carel Jr. suggested that his crewmates had been quite unnerved by the news, "hearing

³² *De Eerste Schipvaart der Nederlanders naar Oost-Indie onder Cornelis de Houtman* Vol. I p. 73; Foster, *England's Quest of Eastern Trade* p. 131.

³³ *Description of a Voyage made by Certaine Ships of Holland into the East Indies* f. 17v-18v.

that we would find at Bantam great falsity and little pepper.” His attestation differed from *Eerste Boeck* on another important point. Unlike Willem Lodewijkszoon, he supplied the names of four Portuguese merchants and identified them as “Francisco de Marez, Pierre de Tayda, Francisco de Batailla and Francisco de Pesoa.” These were the ‘bad guys’, of course, with the notable exception of Pedro de Tayda, who was considered a martyr for the Dutch cause in all accounts of De Houtman’s voyage. Carel Jr. turned the other three into secret agents of Malacca and claimed that the Pangoran of Bantam had been completely in their thrall, only freeing his Dutch prisoners, for instance, after Francisco de Marez’ departure for Malacca in early October 1596. Nor did Carel Jr. believe that their intrigues had been limited to Bantam alone. At his return to Bantam in December 1598, it became clear to him why De Houtman’s fleet had suffered so many mishaps on its voyage along Java’s north coast. He was told, undoubtedly by the Pangoran, that “the Portuguese had informed against us all along Java’s coast, saying that we were crooks and pirates.” This suggestion was further elaborated in Van Eemskerck’s sworn statement.³⁴

After reading Carel Jr.’s account, Van Eemskerck developed a full-fledged conspiracy theory, complete with Portuguese spies and duplicitous local rulers, who sold their loyalty to the highest bidder. Portuguese spies masquerading as merchants and renegades had allegedly been posted in every port along Java’s north coast at the instigation of the *capitão-mór* of Malacca, for no other purpose than to destroy De Houtman’s fleet. The blanks in Carel Jr.’s account were filled with copious references to ‘Francisco de Marez’, ‘Francisco de Batailla’ and ‘Francisco de Pesoa’, of course, whom Van Eemskerck considered the ringleaders of the Portuguese plot. A case in point was his description of the assault on the *Amsterdam* in December 1596, instigated by the ruler of Sidaju. Following De Houtman’s departure from Bantam on 6 November 1596, the three Portuguese spies had supposedly

³⁴ Coolhaas, “Een bron van het historische gedeelte van Hugo de Groot’s *De Jure Praedae*” pp. 428, 432, 435–436, 440, 442–443; *De Eerste Schipvaart der Nederlanders naar Oost-Indië onder Cornelis de Houtman* Vol. I p. 87; *Description of a Voyage made by Certaine Ships of Holland into the East Indies* fol. 18v–19r.

There is no mention of Francisco de Marez, Francisco de Batailla and Francisco de Pesoa in *Verhael vande Reyse or Eerste Boeck*.

fanned out to every important port in order to assault us when we arrived there, or at least to bring us into disrepute with the potentates or regents, and thus to prevent us from trading there or from becoming acquainted with those places.³⁵

Van Eemskerck had no difficulty identifying the indigenous rulers swayed by Portuguese intimidation or blandishment. The Tumenggung of Jakarta and Sultan of Demak had allegedly sold their services to the Portuguese on a visit to the Bantamese court. According to Van Eemskerck, both rulers had agreed to implement the Portuguese conspiracy upon their return to their own respective jurisdictions. Although he did not know the name of the Portuguese spy stationed at Japara, a harbor located halfway along Java's northern coast, he assumed that Francisco Pesoa had been Malacca's man in two ports situated further east, Sidaju and Tuban. The mullah of Giri, the most important Muslim cleric in all of Java, was supposed to be in league with the Portuguese as well, along with the governor of Gresik, a harbor facing the island of Madura, who happened to be the mullah's appointee. Francisco de Batailla allegedly did the honors at the port of Panarukan on Java's eastern tip, "by which means all those Javanese towns where we could have accomplished something were imbued with the treason of this tyrannical nation." It was a highly persuasive explanation for the various disasters that had befallen De Houtman on his voyage along Java's northern coast. Grotius, for one, incorporated it without any kind of qualification in chapter eleven of *De Jure Praedae*.³⁶

It is instructive to compare Grotius' account of the First Voyage with the attestations of Carel Jr. and Van Eemskerck. Grotius never doubted the veracity of the sworn statements that were put at his disposal by the VOC directors. The Portuguese conspiracy was revealed to Dutch merchants and mariners "in part by documents that were intercepted or voluntarily shown; in part, by the testimony of the nations and rulers who had been deceived." His most important

³⁵ Ibidem pp. 452–453; compare also pp. 454–455.

When Jacob van Neck returned to Bantam in March 1601, the Pangoran explicitly advised against proceeding to the Banda Islands because "the Portuguese had set the Kings of Java against us and induced them to surprise and capture our ships under false pretences of friendship." Van Neck included the Pangoran's warning in his sworn statement of 28 September 1604, which Grotius received from the VOC directors.

³⁶ Ibidem.

piece of evidence was the attestation of Van Eemskerck, of course. When Van Eemskerck discussed the events of the First Voyage with the Pangoran of Bantam and the Tumenggung of Jakarta, he learned, for example, that the Portuguese had stirred up so much hatred against the Dutch as to induce the Tumenggung “to surprise us with all vessels at his disposal.” The attestation of Carel Jr. provided Grotius with the names of the Portuguese *agents provocateurs*—“Francisco de Marez, Batalha and Pessoa.” The attestations of Carel Jr. and Van Eemskerck also informed Grotius’ reconstruction of the inner workings of the conspiracy. At first, the Portuguese had tried to scare De Houtman away “by expatiating upon the treacherous nature of the Javanese peoples.” When this did not work, they had incited the Bantamese against him by means of the most outrageous slander and lies:

If the exhaustion consequent upon a long voyage, and a climate to which the Dutch were unaccustomed, had thinned the ranks of the sailors, the Portuguese would report that the missing men had been lost in battle while engaged in piracy at sea; or, if purchasing was deferred for seasonal reasons, they declared that even in such circumstances there could be no doubt but that the Dutch had come to plunder and were lying in wait for a favourable opportunity.

Their smear campaign had been highly successful. It had not just driven a wedge between De Houtman and the Pangoran of Bantam, but also created trouble for the Dutch fleet at every port of call. As Grotius explained, again closely following Van Eemskerck’s attestation,

Portuguese representatives were sent to all of the Javanese ports—Pessoa to Sidajoe and to Tuban, Batalha to Panarockan, and others to Japara, Jacatra, and Tandjong-Java—for the purpose of bringing the Dutch into dispute and purchasing hostility toward them.

Grotius’ parroting of the conspiracy theories of Carel Jr. and Van Eemskerck was entirely typical of his uncritical use of sources in chapter eleven of *De Jure Praedae*.³⁷

Nor could it have been in his interest to question the attesters’ belief in the existence of a Portuguese plot. The task of a lawyer

³⁷ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 183–184; Coolhaas, “Een bron van het historische gedeelte van Hugo de Groot’s *De Jure Praedae*” p. 442.

was to collect incriminating evidence and submit it to the discerning judgement of a jury, such as the readers of *De Jure Praedae*.³⁸ The sworn statements of Dutch merchants and mariners greatly strengthened his case against the Portuguese. His account of the early Dutch voyages to the East Indies was tarred with the brush of the Spanish Black Legend not simply as a matter of rhetorical convenience, but because of their firm conviction that it was the only possible explanation of their harrowing experiences in Asia.

This cannot be the conclusion of a modern historian, however. Although he/she should take the beliefs of historical actors seriously, he/she also needs to go beyond these for a reconstruction of historical events. J.W. IJzerman shows as much in his important edition of the sources pertaining to the First Dutch Voyage, which included a Dutch translation of chapter eleven of *De Jure Praedae*. Although IJzerman was unfamiliar with the attestations that informed Grotius' narrative, his critique of conspiracy theories has remained valid none the less. There never was a shadow of truth in the Portuguese plot envisaged by Carel Jr. and Van Eemskerck and endorsed by Grotius. For example, the *capitão-mór* of Malacca would have been ill advised to send his spies to every Javanese port—an *idée fixe* of both Grotius and Van Eemskerck. As IJzerman points out, De Houtman was still undecided whether to return to Holland or to proceed to the Spice Islands at his fleet's departure from Bantam on 6 November 1596. IJzerman describes the fleet's reception at Jakarta as by all means hospitable, dismissing any suggestion of a secret alliance between the Portuguese and the Tumenggung. As for the alleged Portuguese conspiracy at Japara, he points out that De Houtman failed to call on that port. In his view, even the attack on the *Amsterdam* was a fortuitous event. When De Houtman cast anchor on 2 December 1596, he did so without giving a moment's thought as to his whereabouts. The fleet was situated halfway between the ports of Tuban and Sidaju—a distance of twenty-three kilometers. Again, the Portuguese renegades at Bantam could never have known beforehand the fleet's precise itinerary along Java's northern coast. De Houtman clearly made it up as he went along! As for the Portuguese renegade who visited the *Mauritius* on 4 December 1596,

³⁸ Hugo Grotius, *The Free Sea* ed. Armitage (Indianapolis, IN: Liberty Fund, 2004) p. 7.

he had no evil intentions whatsoever, but simply greeted De Houtman on behalf of the ruler of Tuban. He remained well disposed towards the Dutch in later years, facilitating Van Heemskerck's audience with the ruler of Tuban in January 1599, for example. Hence IJzerman considers him an unlikely ally of the ruler of Sidaju, the real mastermind of the attack on the *Amsterdam*. When the *sabandar* (i.e. port master) of Sidaju made a social call on 3 December, he must have noticed the small complement of the *Amsterdam* and informed his master accordingly. The ruler of Sidaju had himself invited for an official visit two days later. Once he and his men were on board, they attacked the crew of the *Amsterdam* and killed approximately twelve Dutch mariners and merchants. Sidaju was a pirate's nest pure and simple. Only the Spanish Black Legend—part rhetorical strategy in *De Jure Praedae*, part lived experience of Dutch merchants and marines—could have transformed Sidaju into the linchpin of a Portuguese spy network.³⁹

It was with the benefit of hindsight that the Spanish Black Legend became a convincing explanation for the near-failure of the early Dutch voyages to the East Indies. Even more important for Grotius' argument in *De Jure Praedae* were the ideological implications of this explanatory device. Significantly, Grotius did not consider the capture of the *Santa Catarina* merely a revenge for the execution of seventeen Dutch sailors and mariners at Macao, which would have made it a one-off act of retribution. Instead, he assimilated it with the aggressive naval and military strategy that the VOC directors had adopted under pressure from the Dutch Estates General in November 1603. Offensive warfare was the Company's new game plan: a relentless privateering campaign against the Portuguese merchant marine, in combination with preemptive strikes against Portuguese strongholds in Asia. In their capacity as businessmen, the VOC directors had been rather reluctant to heed the wishes of the Dutch Estates General and prioritize war over commerce. It was a major policy

³⁹ *De Eerste Schipvaart der Nederlanders naar Oost-Indië onder Cornelis de Houtman* Vol. III pp. xxx–xxxvi, 61–71; *The Journal, or Dayly Register, Containing a True Manifestation, and Historicall declaration of the voyage, accomplished by eight shippes of Amsterdam, under the conduct of Iacob Cornelisz. Neck, Admirall, & Wybrandt van Warwyck, Vice-Admirall, which sayled from Amsterdam the first day of March, 1598* trans. William Walker (Londen, 1601) fol. 19r–20r; *De Tweede Schipvaart der Nederlanders naar Oost-Indië onder Jaocb Cornelisz. van Neck en Wybrant Warwyck, 1598–1600* J. Keuning ed. 5 vols. (The Hague; Martinus Nijhoff, 1938–1949) Vol. III p. 198.

shift, which, in Grotius' view, cried out for explanation and justification. The rhetorical strategy that he developed in chapter eleven of *De Jure Praedae* was heavily influenced by the Spanish Black Legend. The executions at Macao should not be considered an unfortunate incident, which they really were, but allegedly revealed a larger pattern of Portuguese intimidation and harassment, aimed at precluding all Dutch trade and navigation in the East Indies. Grotius treaded carefully, of course. If the Portuguese conspiracy was limited to *Estado* officials, who took their orders from Philip III of Spain and Portugal, then it was presumably up to the Dutch Estates General to bring the monarch to heel, by means of either diplomacy or public war. Yet if the Portuguese conspiracy involved both renegades and *Estado* officials, whose secret collusion harmed Dutch merchants and created trouble even in places outside Philip III's jurisdiction, then it was entirely legitimate for a private trading company to engage in offensive warfare. As the successor of the regional trading companies, the VOC could justifiably demand reparations from the Portuguese for the injuries that had been inflicted upon Dutch merchants and mariners ever since the First Voyage. Such reparations were most easily obtained by means of a privateering campaign. Grotius considered preemptive strikes necessary as well, if only to protect the VOC's indigenous allies against Portuguese treachery. Grotius made it appear as if the inhuman cruelty and tyranny of the Iberian peoples had spread to every corner of the globe. It was the task of his compatriots, notably the VOC directors, to liberate oppressed peoples everywhere by enforcing freedom of trade and navigation. He was confident of the Company's success:

The Dutch sailor knows that he is fighting in defence of the law of nations while his foes are fighting against the fellowship of mankind; he knows that they fight to establish despotism, but that he himself is defending his own liberty and the liberty of others; he knows that the enemy are motivated by an inborn lust for evildoing, whereas the Dutch have been provoked repeatedly and over along period by calumny, cruelty, and perfidy.

The Spanish Black Legend that justified the Dutch war of independence against Philip II served the author of *De Jure Praedae* equally well when he laid the ideological foundations of the First Dutch Empire.⁴⁰

⁴⁰ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 355.

2.4 *Humanist Ethics in De Jure Praedae*

In Grotius' view, demonizing the Iberian enemy was a price worth paying for a global trading empire. He was equally sanguine about the military alliances and commercial contracts that bound the VOC to infidel rulers in Asia. A combination of scholastic and humanist ethics informed his justification in *De Jure Praedae*. The Spanish scholastics were cited profusely in chapter twelve, for example, particularly Francisco de Vitoria's lecture on the Amerindians. Grotius agreed with Vitoria that the indigenous peoples of the Indies should be considered fully human and civilized, which meant they were entirely capable of governing themselves. Hence they had the right to enter into commercial contracts with whomsoever they wished, without interference from the Spanish or Portuguese. In chapter fourteen of *De Jure Praedae*, Grotius emphasized that good faith was the basis of trade agreements and military alliances everywhere. Natural law mandated the performance of treaties, even if the signatories did not share the same religion. Good faith did not follow from Christian beliefs—the treacherous Portuguese proved as much. It was a principle of natural law, known to all human beings by the light of reason. The East Indians had already experienced the good faith of the Dutch in day-to-day commercial transactions, not to mention, of course, the favorable impression created by the VOC's valiant defense of freedom of trade and navigation. Nor was Grotius particularly troubled at the prospect of his compatriots sacrificing some Christian precept for the sake of their treaty obligations to infidel rulers. A humanist by training, Grotius recognized the importance of observing local customs and usage, even if these clashed with the core beliefs of Christianity or with the laws observed in the United Provinces. There was another reason as well. His compatriots needed to be implacable in their crusade against Portuguese tyranny. Any ambiguity on this point would alienate their indigenous allies and put their lives at risk. The murder of Sebald de Weert in June 1603 was a case in point. The Dutch captain's misguided decision to release his Portuguese prisoners provoked the wrath of his Sinhalese ally, the King of Kandy, at whose orders De Weert was killed, together with forty-nine of his crew. In chapter fifteen of *De Jure Praedae*, Grotius put the blame for this misfortune squarely on the shoulders of De Weert. Although he had given his word of honor, De Weert had been under no obligation to free his Portuguese captives according to Grotius.

Acts of Christian charity were completely inappropriate if it endangered a man's self-preservation or aggrieved an important ally. Stoic philosophy taught that citizens could be required to die for their fatherland, but not for anything else. The treatment of Asian allies should be modeled on the Stoic notion of the fellowship of mankind, which demanded that all foreigners, including the King of Kandy, be treated well, regardless of faith or ethnicity. Humanist ethics and historiography came together in this powerful cautionary tale. According to Grotius, the VOC should keep faith with indigenous allies, whether infidels or not. This was not just a matter of self-interest, but also a solemn duty owed to the Dutch commonwealth.⁴¹

What were the facts of the case? Sebald the Weert was the second-in-command of a fleet of fourteen ships that left Holland in June 1602. While his superior Wijbrandt van Warwijck headed for Bantam, De Weert set course for the island of Ceylon (modern-day Sri Lanka) and the port of Aceh on the northern tip of Sumatra. With two ships and a yacht, De Weert reached the east coast of Ceylon by the end of November. He ordered the vessels *Vlissingen* and *Der Goes* to continue on to Aceh, but left his flagship *Zurckzee* in the harbor of Batticalao, one of the few remaining Sinhalese ports that was still under the control of Wimala Dharma Suriya (d. 1604). De Weert himself journeyed overland to the capital of Kandy, in the belief that its ruler would extend a warm welcome to any potential ally against the Portuguese. He was not disappointed in his expectations. Joris van Spilberghen had called at Batticalao just six months earlier and made an overland journey to the Sinhalese capital as well, where he had befriended Wimala Dharma Suriya and cleverly held out the possibility of an anti-Portuguese alliance. Although Van Spilberghen was not authorized to conclude treaties in the name of the Dutch Estates General and Maurice of Nassau, this was an immaterial point for Wimala Dharma Suriya, who desperately needed European allies to help him besiege the Portuguese ports in Ceylon. The portrait of Prince Maurice, which had been presented to him by Van Spilberghen, was on full display when he received De Weert

⁴¹ Richard Tuck, *Philosophy and Government* pp. 169–179; Tuck, *The Rights of War and Peace* pp. 79–94; Leonard F.M. Besselink, 'Cynicism, Scepticism and Stoicism: A Stoic Distinction in Grotius' Concept of Law', *Grotiana*, New Series, 22/23 (2001/02) 177–196.

in audience. De Weert made the most of the ruler's Hollandophilia. He elaborated, for example, on the feats of William the Silent and Prince Maurice in their war against with the King of Spain and Portugal. Wimala Dharma Suriya replied with a long complaint about the Portuguese conquest of Ceylon and entreated De Weert to help him besiege the Portuguese port of Columbo, promising to bring 20,000 men into the field if De Weert consented to blockade the harbor by sea. The Sinhalese ruler reiterated his request that evening and the following day. In reply, De Weert declared that he needed reinforcements from Aceh before he could effectively blockade Columbo. Wimala Dharma Suriya was satisfied with his reply and gave him permission to return to Batticalao. As a parting gift, he presented De Weert with a golden cup and crease, along with a large quantity of cinnamon and pepper.⁴²

De Weert was back aboard the *Zurckzee* on 14 January 1603 and reached Aceh three weeks later. There he put together a squadron of seven vessels, all except one belonging to the fleet of Van Warwijck. With these reinforcements he returned to Batticalao on 25 April 1603. While awaiting Wimala Dharma Suriya's arrival, he patrolled Ceylon's eastern coast and captured four Portuguese caravels. When apprised of these buccaneering successes, the Sinhalese ruler sent a message to De Weert expressing his approval. He also demanded that any Portuguese prisoners be handed over to him for execution at Batticalao. Yet the message arrived too late. De Weert had already released the caravels' crews and provided them with a safe-conduct bearing his own signature.⁴³

When Wimala Dharma Suriya finally arrived at Batticalao on 1 June 1603, De Weert went ashore together with two companies of

⁴² F.W. Stapel, *Geschiedenis van Nederlandsch Indië* (Amsterdam, 1938) Vol. III pp. 31–39; *De Reis van Joris van Spilbergen naar Ceylon, Atjeh en Bantam, 1601–1604* (The Hague: Martinus Nijhoff, 1933) pp. 47–50; *Bijdragen en Mededelingen van het Historisch Genootschap* 6 pp. 249–254; *Some Documents Relating to the Rise of the Dutch Power in Ceylon, 1602–1670* ed. P.E. Pieris (London, 1929; reprinted 1973) pp. 26–34.

Joris van Spilberghen had left Zeeland on 5 May 1601 with three ships belonging to the famous Dutch merchant Balthasar de Moucheron. The fleet of fourteen ships that sailed in June 1602 was the last fleet put forth by the regional trading companies (*voorcompagnieën*), which had all been incorporated in the United Dutch East India Company in March 1602. Van Warwijck's voyage was a kind of hybrid undertaking. While the crew reported to the VOC directors, the regional trading companies (*voorcompagnieën*) paid for the fleet's expenses and reaped the profits.

⁴³ *Bijdragen en Mededelingen van het Historisch Genootschap* 6 pp. 255–256; *Some Documents Relating to the Rise of the Dutch Power in Ceylon* pp. 26–34.

armed Dutch sailors. The Sinhalese ruler greeted him on the beach with a great show of friendliness, yet insisted that he dismiss most of the soldiers escorting him. De Weert complied with the demand, retaining just seven musketeers and a member of his council of officers. He was eager to cultivate Wimala Dharma Suriya and proposed that they go aboard his flagship together in order to inspect the fleet. It did nothing to allay the suspicions of the Sinhalese ruler. Why a visit to the *Zirkzee*, when he had already traveled to Batticalao at De Weert's request and then agreed to meet on the beach? De Weert testily replied that "if the King did not sufficiently trust him to go aboard his flagship, he would take his vessels home, instead of to Punto Galle," the Portuguese stronghold on the southern tip of Ceylon. This remark infuriated the King of Kandy, who immediately gave orders for De Weert to be killed, along with forty-nine Dutch mariners who were still ashore.⁴⁴

The murder of De Weert contributed to the frosty relations between the VOC and the Sinhalese ruler that lasted the better part of a decade. Yet De Weert was not considered entirely blameless, even by his own crew. Grotius learnt as much from the attestation of David van Lochum and 'Discourse and Advertisement', a summary of letters received by the VOC directors in March 1604. According to 'Discourse and Advertisement',

there were some people aboard the fleet who thought that this murder was not provoked by the aforesaid reply. For the King [of Kandy] had sent letters to the Vice-Admiral beforehand to inform him of the following: "if you release the Portuguese [prisoners], I will no longer regard you as a friend."

Grotius could not agree more. He explicitly sided with Wimala Dharma Suriya in chapter fifteen of *De Jure Praedae*, exhorting VOC servants to keep good faith with their indigenous allies, even if these waged war "more ferociously than the Europeans."⁴⁵

⁴⁴ *Bijdragen en Mededelingen van het Historisch Genootschap* 6 pp. 256–257; *Some Documents Relating to the Rise of the Dutch Power in Ceylon* pp. 26–34.

The total number of casualties was so high because many sailors had refused to re-embark after their dismissal by De Weert and had gone over to Batticaloa to visit the brothels there.

⁴⁵ Jan A. Somers, *The Dutch East India Company as an Actor in International Law* (Rotterdam: Gouda Quint Publishers, 2001) pp. 176–180; *Bijdragen en Mededelingen van het Historisch Genootschap* 6 p. 257; Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 348.

Grotius realized that a global crusade against Portuguese tyranny necessitated a reordering of moral values. He was not at all surprised that the Sinhalese ruler had suspected foul play when learning from De Weert that “it is our custom to preserve our enemies even when we are able to destroy them.” If the VOC wanted to avoid a repetition of the events at Ceylon, it should extend a “guaranty of good faith” to its indigenous allies, as a reward for their friendship and compensation for their sufferings. Nor could their trust be won without systematic and continuous attacks on the *Estado da India*. Indigenous allies were eager to witness “the despoliation of those men who have been the despoilers of the whole world.” Grotius’ ruthless advice was derived from the twin sources of moral authority in *De Jure Praedae*, the natural right to self-defense and the natural law principle *pacta sunt servanda* (contracts must be performed). Although no unchristian precepts in and of themselves, they were clearly of a different order than the cardinal virtues of mercy and charity, which, in Grotius’ view, had informed De Weert’s misguided decision to save his Portuguese prisoners from the wrath of Wimala Dharma Suriya.⁴⁶

Grotius’ interpretation of the early Dutch voyages to the East Indies throws into sharp relief the practical implications of his natural law and natural rights theories. The right to self-defense formed the basis of a complex hierarchy of laws and rights that Grotius outlined in the Prolegomena of *De Jure Praedae*. There was little room for altruism pure and simple in Grotius’ moral universe. He came closest perhaps when he formulated the Fifth and Sixth Laws of Nature as “evil deeds must be corrected” and “good deeds must be recompensed.” Yet he did not extrapolate from the Sixth Law anything compatible with New Testament ethics, but made it the basis of contract theory instead, arguing that

in the eyes of all men, there is no more grievous disgrace than that attached to lying. Herein lies the origin of pacts, which is necessarily bound up with the Sixth Law, as has been indicated above.

In draft form, the Fifth Law was clearly based on the biblical notion of “an eye for an eye, a tooth for a tooth.” *Malefacienti malefaciendum*,

⁴⁶ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 348; Richard Tuck, *Philosophy and Government* pp. 169–179 and Tuck, *The Rights of War and Peace* pp. 79–94.

as Grotius initially put it in the manuscript of *De Jure Praedae*. Significantly, Grotius crossed out these two words and replaced them with *malefacta corrigenda*, which invoked the image of judicial procedure and proper punishment. By this slight of hand, the Dutch war of independence became a worldwide quest for natural justice, with VOC servants in the unlikely role of knights errant, punishing transgressors of the natural law wherever they could be found.⁴⁷

2.5 Conclusion

The Spanish Black Legend that circulated in Holland at the beginning of the seventeenth century has proven to be of great importance to our understanding of *De Jure Praedae*. Its stock themes—Spanish cruelty and barbarism, Habsburg aspirations towards universal monarchy, the material and spiritual bondage of their subject peoples— informed Grotius’ rhetorical strategy throughout *De Jure Praedae*. They also served as the organizing principle of chapter eleven. Various editions of *Brevísima Relación* were available to Dutch readers at the turn of the seventeenth century. The Flemish refugee Joost de Winghe prepared gruesome illustrations for the Latin edition of *Brevísima Relación* published in Frankfurt in 1598. His etchings were reproduced in all Dutch, French and English translations that appeared in the next fifty years. The themes of *Brevísima Relación* are certainly present in Grotius’ grisly account of the punitive expedition of André Furtado de Mendoza, whose *armada* terrorized the inhabitants of the Spice Islands in the spring and summer of 1602. The Amsterdam VOC directors had presented Grotius with fifteen sworn statements from Dutch merchants and mariners, which formed the basis for chapter eleven of *De Jure Praedae*. These attestations were rife with conspiracy theories. The early Dutch voyages to the East Indies were reinterpreted with the benefit of hindsight by both Carel Jr. and Van Eemskerck, for example. The Pangoran of Bantam had conversations with both men after he had signed a treaty with Van Neck in 1598. Eager to placate his new Dutch allies, he blamed the

⁴⁷ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 19 and Vol. II f. 7v–8r.

mishaps of the First Voyage on the machinations of Portuguese renegades. All this was grist to the mill of Grotius. In chapter eleven of *De Jure Praedae*, the disasters that had befallen Cornelis de Houtman on his journey along Java's northern coast became presumptive evidence of a worldwide Portuguese plot to subvert freedom of trade and navigation. Like Cicero and Quintilian before him, Grotius did not write history for history's sake. His account of the Portuguese mistreatment of Dutch merchants and their indigenous allies was meant to justify the aggressive military and naval strategy that the VOC directors had adopted in November 1603. History clearly served as the handmaiden of forensic oratory in *De Jure Praedae*.

Grotius' reordering of moral values in *De Jure Praedae* was a reflection of his humanist training. He embraced the Stoic notion of the fellowship of mankind, for example, which made it praiseworthy for the VOC to come to the aid of foreigners—the Pangoran of Bantam, the Sultan of Johore, the King of Kandy, etc., regardless of their faith or ethnicity. Grotius emphasized, again in accordance with Stoic philosophy, that his compatriots should do their duty as citizens of the Dutch commonwealth. In the face of Portuguese treachery, it was imperative for VOC servants to keep faith with their indigenous allies, even if it meant condoning the latter's barbaric treatment of prisoners of war. The VOC's commercial and strategic interests were of overriding importance as long as the Dutch Republic was engaged in a worldwide war against the King of Spain and Portugal. Grotius was convinced that De Weert had not just been imprudent, but also morally wrong in his dealings with the King of Kandy. It was an unpardonable mistake on the part of De Weert to attach greater importance to the cardinal virtues of mercy and charity than to his own self-preservation or the duty that he owed to the fledgling Dutch Republic, which simply could not survive without Asian trade and allies.

CHAPTER THREE

WHY WAS *DE JURE PRAEADA* WRITTEN?

3.1 *Introduction*

In the previous chapter, we have examined the transformation of the Spanish Black Legend in the second half of the sixteenth century as a result of the Dutch Revolt and War of Independence. In propagating the Black Legend, the Dutch rebels sought to obscure the brutal reality of civil war in the Low Countries in the 1560s and 1570s and justify the creation of a new state thereafter. Spanish tyranny was conceived as abject slavery and relentless prosecution, wrongfully inflicted on freeborn Dutchmen. Over time, the Dutch rebels shifted the blame from Philip II's evil councilors, in particular the Spanish inquisitors, to the monarch himself. Otherwise, their notion of Spanish tyranny remained quite consistent and owed much to *Brevísima Relación*, the harrowing description of Spanish conquest and colonization in the Americas by Bartolomé de las Casas. The Dutch rebels did not cease to warn their compatriots that, unless they resisted the Habsburg armies with all their might, they would share the grievous fate of the Amerindians. As implied by numerous pamphlets, including the Dutch editions of *Brevísima Relación*, both peoples were innocent victims of the innate cruelty of Spanish *conquistadores*, who craved for world domination and sought to impose their religious bigotry everywhere. Even when the military threat receded from the borders of Holland and Zeeland, the Spanish Black Legend remained an important element in Dutch war propaganda. The first illustrated edition of *Brevísima Relación* appeared in Frankfurt-am-Main in 1598. The Amsterdam printer Cornelis Claeszoon issued a pictures-only edition in 1609. Joost de Winghe's etchings were repeatedly reproduced by Dutch publishers in the first quarter of the seventeenth century. These *Mirrors of the Spanish Tyranny* did not have the same ideological implications as previous Dutch editions of *Brevísima Relación*. The war party in the United Provinces primarily regarded them as an eloquent testimony to Spanish bad faith, justifying its opposition to the Peace and Truce negotiations of 1607–1609, for example. By the turn of the seventeenth century, the

Het vierentwintichste Boeck.	Onder de regeringhe van Coningh Philips.
<p>Generael betreeghen / inhoudende sommaerlijck: Dat in 21. Jaeren gheen ander compaignie / of Gheschiednisse / waer vozen de compaignie 25. duysent gulden den Heeren Staten sullen betalen die inghelept sullen werden inde eerste rekeninghe van 10. Jaeren die ingaen sal Anno 1603. in welke 10. Jaeren niemant meer inde compaignie sullen mogen nemen / dan die hen tusschen dit ende Septembet sullen verclaren / hoe veel sp inde selve compaignie sullen beghieren in te legghen / mede deplien ofte herederen / welck sp betalen sullen op vermaaninghe vande Bewinthebbers / outrent een derdepart totte wytreddinghe van t Jaer 1603. ende totte wytreddinghe van Anno 1604. een ander derde / en het leste derdepart Anno 1605. De vierde wytreddinghe sal wytredden van de eerste equipage gheschieden worden / als die goederen vercocht sijn / en van de wytreddinghe s'cheyden die Maenden nae dat sp sullen vercocht wesen. Ende als de 10. Jaeren om sijn / soo salder een g'enerael slot van rekeninghe ghemaeckt worden / sulchs dat alle de restanten die in Indien sullen wesen / ende de dependenten van dien / aende volghende compaignien sullen comen / t sp by taxatien ofte andersins / soomen dat best vinden sal / ende dan sal der openinghe wesen dat men daer sal moghe in comen / oock wytgaen die wint.</p>	<p>Jan Jansz. Carel. Bernart Wretreuing. Johan Poppen. Jans van der Hendrick Bunsch. Louis de Beque. Dierich van Oe. Francoys van Doube. Elbert Lucas. Jhaack de Wapje. Sibert Pieterz. Gerrit Kieps. Marcus Doghelaet. Johan Vermaers. Evert Dierichz. Vnbrecht Wachtmans. Henart Kay. Hilbert Simonz. Jonck-heyn. Hentent de Camer van Zeelandt 14. Mriaen Hendrichz ten Haeff. Jacob Bozel. Johan Lambertz. Coole. Jacob Pieterz. de Waert. Cornelis Muenix. Mriaen Womene. Laurens Baer. Evert de Bequer. Arnold le Clerck. Arnold Verhoeven. Berard van Schoonhoute. Bidacks Pieterz. Balthasar van Dierden. Balthasar de Moucheron. Camer van Delft. 11. Jan Jansz. Iodensteyn. Henr Jacobz. Iodensteyn. Dierich Bunnisz. vander Dussen. Gerrit Dierichz. Ideer-man. Cornelis Mriaensz. Vogact. Michel Jansz. Sasfont. Willem Joosens d' Edel. Dierich Gerrits. Ideer-man. Johan Raet. Jacob Sandertz. Salbienen. Hendrick Ofs. Jasper Mdoz-man. Camer van Rotterdam 9. Pop Pieterz. vander Mepde. Willem Jansz. Franck. Gerart Wuyghen. Peter Lenartz. Wusef. Johan vander Dehen. Willem Jansz. van Toon. Jan Jacobs. Mus. Mriaen Pieterck. Cornelis Matelief de Jonghe. Camer van Hoorn 4. Claes Jacobsz. Sijme. Cornelis Cornelisz. Vren. Willem Pieterz. Crap. Peter Jansz. Lion. Camer van Enchuyfen 12. Marcus Gerrits. Willem Cornelissen de Jonghe. Jan Pieterz. Schpan. Hendrick Gijnter. Jan Laurensz. van Kogsen. Dierich Dierichz. Pelsler. Ghysbrecht van Werensteyn. Werthout Jansz. Steen-huyfen. Jacob Jacobsz. Wintloopen. Francoys du Gardin. Willem Waffer. De 14. schypen die dit Jaer naer Oost-Indien sullen varen / te weten / 6. van Amsterdam / 3. van Middelbozzh / 2. van Rotterdam / een van Delft / ende 2. van Enchuyfen / die sullen ooc vercocht gaen / sulder dat schyde ende bate ghemeyn comen / maer als die wederom comen / so sal t Capitael mette wunste de participanten ghegheven worden</p>
<p>Die van Amsterdam sullen de halve equipage ofte wytreddinghe hebben: Middelbozzh een vierde: Delft Rotterdam / Hoorn ende Enchuyfen elck een schijfende deel.</p>	
<p>Daer de schypen wytvaren / daer sullen sp wederom in comen. De Speerepen sulte op de voorscheyden ses plaetsen / daer Cameren van Bewinthebbers sijn / vercocht worden op Amsterdamz ghevolchte: ende als d' een ofte d' ander Camer wytrevercocht sullen hebbe / ofte dat sp niet ghepobideert en sijn van Speerepen ofte ander Coopmanschappyn / soo sullen sp vande Camere die ghepobideert is / outbieden soo veel als sp sullen comen vercoopen die hun de ghepobideerts de Camere sal moeten laten volghen / soo langhe tot dat het al vercocht is.</p>	
<p>Daer is gheordonneert seker getal van Bewinthebbers / daer elcke Camere op sal versterken: als Amsterdam 20. Middelbozzh 12. d' ander Cameren elck 7. ende daer onder eenighen comende af te stercken / soo sullen die vande Camer daer sulder gheschiet is / die nominieren wytre de participanten beguame personen / ende die niet goede sommen participeren / ende de Hooghemersteren ofte Staten sulden der een wytre kiesen.</p>	
<p>Ad de 6. Cameren sullen 17. personen ghecozen worden te weten die Bewinthebbers van Amsterdam sulden der 8. kiesen wytre haer Camer / Middelbozzh 4. Delft ende Rotterdam 2. Hoorn ende Enchuyfen 2. ende den 17. persoon sal wint van Middelbozzh / ofte vande Maese ofte van Noord-hollandt per vices ofte ghebuerte: welcke personen te samen sullen comen als mensche beschyppen / al om mette meeeste stemmen te resolveren / met hoe veel schypen dat men varen sal / op wat plaetsen / ende voorts alle dingen totten handel betrefsende / mede als de Schypen wedercomen / hoemen daer mede handelen sal.</p>	
<p>Wat by het Collegie van 17. sal gheordonneert worden / sullen de andere particuliere Cameren moeten effectueren / ende in t werck stellen: ende de plaetsen daer men dit Collegie beschyppen sal / sal wesen ses Jaeren nae maekanden tot Amsterdam / ende van twee Jaeren tot Middelbozzh: van vander ses Jaeren tot Amsterdam / ende van twee Jaeren tot Middelbozzh / sulder daer gheen beschyppinghe in d' anders vier plaetsen / als in Hollandt gheleggen / en sal vallen.</p>	
<p>De Bewinthebbers in t contract ghemeynt / Anno 1602. ben 20. Maert / waren dese volghende. Camer van Amsterdam 23.</p>	
<p>Gerart Bicker. Heymer Paulw. Peter Dierichz. Waffeler. Jagues de Belger.</p>	

Fig. 14. The directors of each of the six Chambers of the United Dutch East India Company (VOC) in 1602, as listed by name in Emmanuel van Meteren's *History of the Low Countries War*.

Spanish Black Legend had also become an important rationale for Dutch attempts to enter the Indies trade, nowhere more so than in *De Jure Praedae*.

Tainting the Portuguese by association, Grotius suggested in chapter eleven of *De Jure Praedae* that Asian princes and peoples had been subjected to the same “savage treatment” which his compatriots had “often suffered at the hands of the Spaniards.” Grotius took his cue from *Brevisima Relación* when he decided to describe in lurid detail the indiscriminate slaughter allegedly visited upon the Ambonese by the Portuguese *armada* in the summer of 1602. Yet Grotius embraced the Spanish Black Legend for other reasons than mere rhetorical opportunism. His narrative of the early Dutch voyages to the East Indies closely followed the attestations which the Amsterdam VOC directors had put at his disposal in October 1604, all of which dabbled in conspiracy theories. If Dutch merchants and mariners were willing to affirm under oath the existence of a nefarious Portuguese plot to subvert freedom of trade and navigation, who was Grotius to gainsay them in *De Jure Praedae*? There was another consideration as well. Unless Portuguese tyranny in Asia could be presented as the exact mirror image of Spanish misdeeds in Europe and the Americas, Grotius would be hard-pressed to justify the VOC’s aggressive military and naval strategies, as exemplified by Van Heemskerck’s capture of the *Santa Catarina*. There could be no justification for all-out war in Asia if the injuries inflicted by the Portuguese were relatively minor and completely incidental. Without a fire-breathing Portuguese dragon to slay, it would make little sense to cast the VOC in the role of the proverbial white knight, valiantly enforcing natural rights and natural law in the East Indies.¹

Combining a radical rights theory with humanist historiography was still not sufficient to justify the establishment of a Dutch trading empire on the ruins of the *Estado da Índia*. Grotius realized that, for the VOC’s privateering campaign to be successful, Dutch merchants needed to ally themselves with indigenous rulers and give priority to their treaty obligations, even if these seemed to contradict Christian morality. If nothing else, Sebald de Weert’s murder showed that a strict observance of the cardinal virtues was quite literally self-defeating in the rough and tumble world of seventeenth

¹ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 209.

century Asia. Mercy and charity were wasted on barbaric enemies like the Portuguese, who deserved punishment under natural law instead. Humanist ethics and historiography always went hand in hand in Grotius' creative reworking of the Spanish Black Legend.

Yet an important question is left unanswered by our investigation of Grotius' rhetorical strategies and his use of sources. What could have been Grotius' own intention(s) in writing *De Jure Praedae*? Grotius himself was in two minds about this when he wrote to George Lingelsheim, a Heidelberg town councilor and diplomat, on 1 November 1606:

The little treatise on Indian affairs is complete: but I do not know whether it should be published as it was written or only those parts which pertain to the universal law of war and booty. Many indeed have dealt with this subject both old and new. But I believe that new light can be thrown on the matter with a fixed order of teaching, the right proportion of divine and human law mixed together with the dictates of philosophy.²

At that point, Grotius clearly set greater store by his theorizing on the "universal law of war and booty" than any other part of the manuscript. Yet it is doubtful that it had originally been conceived as a work of legal scholarship. The Amsterdam VOC directors probably expected something very different from him when they commissioned an *apologia* for Van Heemskerck's capture of the *Santa Catarina* in September 1604. If it had been up to them, the format of *De Jure Praedae* might well have been that of a historical narrative pure and simple—a short, pithy pamphlet, publishable at short notice, which detailed the horrors of the Portuguese tyranny in the East Indies and justified the carrack's seizure as condign punishment for Portuguese mistreatment of Dutch merchants and their indigenous allies. There is a possibility, of course, that Grotius never had any intention of living up to the directors' expectations. Yet it is far more likely that his priorities changed in the process of writing *De Jure Praedae*. This would explain its strange, hybrid nature: ten chapters of legal theory, followed by a historical account of the early Dutch voyages to the East Indies trade, culminating in a defense of VOC privateering as just, honorable and beneficial in the last four chapters. Grotius was apparently so preoccupied with the VOC's

² *Briefwisseling van Hugo Grotius* Vol. I p. 72.

vicissitudes in domestic and international politics that it became increasingly difficult for him to write a straightforward “defense of this case.” In writing *De Jure Praedae*, he may well have found himself aiming at a moving target, certainly when he decided to address a variety of political, financial and legal problems faced by the fledgling Company in 1604–1606.

It was only with great reluctance that the Amsterdam VOC directors had decided in November 1603 to launch a privateering campaign beyond the Line. They would have preferred to continue the defensive policies of the regional trading companies (*voorcompagnieën*), the precursors of the VOC. With a few exceptions, the regional trading companies had always insisted that their personnel engage in peaceful trade and use force only in self-defense. Yet the Dutch Estates General had successfully put pressure on the Amsterdam VOC directors to change tack completely. When Steven van der Haghen sailed in December 1603, he was under orders from the VOC directors to

do all possible harm to the Spanish, Portuguese and their adherents for the protection of our servants, the inhabitants of the islands [in Southeast Asia] and other friends of ours, as well as for the benefit and security of the East Indies trade.

Predictably, the privateering campaign opened up a Pandora’s box of complaints, ranging from third parties protesting against the infringement of their trading privileges, to the restiveness of VOC shareholders, who were asked to pay for the war in the East Indies, yet reaped none of the profits. Grotius commented to a greater or lesser degree on all of these issues in *De Jure Praedae*. The survival of the VOC and the safety of the Dutch commonwealth were of paramount concern to him, which remained the case long after he had finished the manuscript.³

³ *Resolutiën der Staten-Generaal, 1579–1609* ed. N. Japikse and Ha.H.P. Rijperman 14 vols. (The Hague: Martinus Nijhoff, 1915–1970) *Twaalfde Deel, 1602–1603* (RGP 92) p. 631; J.G. van Dillen, *Het oudste aandeelhoudersregister van de Kamer Amsterdam der Oost-Indische Compagnie* (The Hague: Martinus Nijhoff, 1958) pp. 98–99; *De Opkomst van het Nederlandsch Gezag in Oost-Indië (1595–1610)* ed. J.K.J. de Jonge 3 vols. (The Hague, 1862–1865) Vol. I pp. 213, 223 and Vol. III pp. 146–147; *De Oudste Reizen van de Zeeuwen naar Oost-Indië, 1598–1604* ed. W.S. Unger (The Hague: Martinus Nijhoff, 1948) pp. 27–28; H. Hoogenberk, *De Rechtsvoorschriften voor de Vaart op Oost-Indië 1585–1620* (Utrecht 1940) passim; M. de Jong, ‘Kooplieden en hun belangen

It is the argument of this chapter that Grotius' intentions in writing *De Jure Praedae* were intimately bound up with the legal, political and financial difficulties faced by the VOC directors as a consequence of adopting an aggressive military and naval strategy. The Dutch historian Robert Fruin famously contended that the purpose of *De Jure Praedae* had been to allay the fears of Mennonite shareholders of the VOC, who had allegedly threatened to divest *en masse* in protest against the capture of the *Santa Catarina*. Modern scholarship has shown Fruin's claims to be untenable, however. Most VOC shareholders were not troubled by the pangs of conscience, but by the low returns on their investment. The VOC failed to pay any dividends in the first eight years of its existence. Had Henry IV of France succeeded in establishing a French East India Company, the VOC might have lost quite a few shareholders, who calculated, probably rightly, that peaceful trade by a French trading company would yield higher dividends than the expensive military and naval campaigns of the VOC. The capture of the Portuguese carrack *St. Jago* created a different kind of conundrum for the Zeeland VOC directors in 1602. It turned out that a large part of its cargo belonged to Jewish traders in the Low Countries and the Florentine merchant Francisco Carletti, which resulted in lengthy, convoluted lawsuits and a great deal of political wrangling. In all probability, it was Johan Boreel, son of a Zeeland VOC director, who kept his friend Grotius abreast of all these developments. Significantly, Grotius swept the legal claims of both Carletti and the Jewish traders under the carpet in *De Jure Praedae*. Instead, he commended the Zeelanders for their capture of the *St. Jago*, which he treated as a prefiguration of Van Heemskerck's seizure of the *Santa Catarina*. Anxious to make his case

in de overheidsfinanciën van de Republiek: bilaterale subsidies en leningen als 'case-study', 1615–1630' and I.J. van Loo, 'Kaapvaart, handel en staatsbelang. Het gebruik van kaapvaart als maritiem machtsmiddel en vorm van ondernemerschap tijdens de Nederlandse Opstand, 1568–1648' in: *Ondernemers en Bestuurders: Economie en Politiek in de Noordelijke Nederlanden in de Late Middeleeuwen en Vroegmoderne Tijd* ed. Lesger and Noordegraaf pp. 277–297 and 349–368.

When Steven van der Haghen put out to sea on 18 December 1603, he carried detailed instructions to first blockade Goa—all carracks arriving from Lisbon were to be captured or destroyed—and then lay siege to Malacca, if possible with the help of the Sultan of Johore. Van der Haghen never succeeded in carrying out the latter part of his instructions. He did blockade Goa for several weeks, with little to show for it, however.

for total war in the East Indies, he shamelessly played the patriotism card in chapters fourteen and fifteen of *De Jure Praedae* and argued that VOC privateering would redound to the honor and profit of the United Provinces. Yet he also realized that it was imperative to relieve the VOC's heavy financial burdens, lest the shareholders revolted, or, worse, the company collapsed completely. Life would be so much easier for the VOC directors if they could borrow warships, guns and ammunition from the Dutch Admiralty Board, and keep the proceeds from privateering in order to a) pay dividends to shareholders and b) finance the war in the East Indies. Grotius clearly favored a political solution for all of the VOC's problems. The epilogue of *De Jure Praedae* appealed directly to the provincial Estates and the Dutch Estates General:

I beg and entreat of every one of our governmental assemblies (both those of our individual provinces and the Estates General), the leaders and lords of public liberty, that they will continue to promote and protect, with the favourable treatment accorded at the outset, this enterprise which is opportune in the highest degree, detrimental to the foe, beneficial for our people and fraught with glory for those assemblies themselves. I beg and entreat, too, that they will not permit toil to go without rewards, valour without honour, peril without profit, and expenditures without reimbursement.⁴

This was no rhetorical flourish, but deeply felt conviction, which Grotius expressed with equal gusto in the petitions that the VOC directors submitted to the Dutch Estates General in March and May 1606. Unless Their High Mightinesses took appropriate measures, so Grotius argued, it would be impossible for the VOC directors to continue their military and naval offensive against the Portuguese, let alone consolidate their conquests—the Portuguese castle at Ambon had surrendered to Steven van der Haghen in February 1605, for example. The Dutch Estates General was given a clear choice either to provide warships, guns and ammunition for the next VOC fleet or relinquish its statutory right to one fifth of all booty captured in the East Indies. In Grotius' view, the establishment of a Dutch trading empire in the East Indies, so necessary for the survival of the United Provinces, was critically dependent on the close cooperation between Dutch merchants and magistrates. There could be no

⁴ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 365.



Fig. 15. Portrait of Henry IV of France.

opposition between state and trade: such was the underlying message of both *De Jure Praedae* and the VOC petitions drafted by Grotius.

The present chapter first examines the political wrangling and intrigue that resulted in the verdict of the Amsterdam Admiralty Court of 9 September 1604. As Robert Fruin already noted in his famous 1868 article, it was by no means a foregone conclusion that the *Santa Catarina* would be declared good prize and assigned jointly to the VOC directors, as caretakers of the defunct United Amsterdam Company, and Van Heemskerck and his crew. Since there were many claimants, the VOC directors could hardly have received the lion's share of the booty if it had not been for the intervention of the Estates of Holland and Dutch Estates General. Similar issues had bedeviled the Zeeland VOC directors following the capture of the Portuguese carrack *St. Jago* in March 1602. Both the Jewish traders of Antwerp and Amsterdam and the Florentine merchant Francisco Carletti had tried to prevent the carrack's confiscation in the first instance. When their claims were rejected by the Middelburg Admiralty Court, they appealed to the Dutch Estates General to have the verdict reversed. The case of the *St. Jago* was clearly at the back of Grotius' mind while he wrote *De Jure Praedae* and must therefore be discussed in some detail. His reaction to the appeals procedures initiated by Carletti and the Portuguese New Christians reveals much about his conceptualization of the VOC's privateering campaign. Henry IV's plans for the establishment of a French East India Company are the object of analysis in the last part of this chapter. Fruin argued in his 1868 article that Grotius had intended *De Jure Praedae* to serve an immediate purpose, viz. to allay a *crise de conscience* among the Mennonite shareholders of the VOC, which was allegedly such a serious problem that it endangered the Company's existence. Yet a close reading of the petitions which Grotius drafted for the VOC directors in March and May 1606 suggests that the exigencies of war finance, not the pangs of conscience, were the sticking point for directors and shareholders alike. Unless Their High Mightinesses alleviated the financial burdens of the VOC, the war in the East Indies might well end in an ignominious defeat for Dutch arms and trade. This had to be prevented at all costs as far as Grotius was concerned.

3.2 *The Fruin Thesis*

It was the merit of Robert Fruin, the greatest Dutch historian of the nineteenth century, to recognize the importance of *De Jure Praedae* when the manuscript surfaced at the Martinus Nijhoff auction in The Hague in 1864. H.G. Hamaker was persuaded to prepare a Latin edition of the manuscript, which was published in 1868. Fruin himself reconstructed its historical context in a wonderfully insightful article ‘An Unpublished Work of Hugo Grotius’, which appeared in *De Gids* that same year.⁵ As Fruin pointed out, the news of the *Santa Catarina*’s capture caused great excitement in Amsterdam in March 1604. A pamphlet was promptly published, estimating the booty at

sixty times a hundred thousand ducats, among which 26 hundred thousand guilders’ worth of Chinese silks, besides a great weight of unrefined and unpurified gold, along with many other goods, merchandise and furniture, including a royal chair set with gems and precious stones, all marvelous to relate.

A prize this precious had, of course, many claimants. The VOC directors were under no illusion that it would fall to their share unopposed. In his article, Fruin analyzed the political maneuvering of the VOC directors that resulted in the verdict of the Amsterdam Admiralty Court of 9 September 1604.⁶

At the request of the VOC directors, so Fruin wrote, the Dutch Estates General put its navy ships in the English Channel and North Sea on high alert in April 1604 in order to forestall the designs which Dunkirk privateers or James I of England might have on the *Santa Catarina*. These precautions proved to be her salvation. When the Dutch navy captain Pieter Willemszoon Verhoef intercepted her two months later, only eight sailors were still alive out of an original

⁵ Robert Fruin, ‘Een onuitgegeven werk van Hugo de Groot’ and ‘An Unpublished Work of Hugo Grotius’, *passim*.

⁶ Robert Fruin, ‘An Unpublished Work of Hugo Grotius’ pp. 3–71 (the quote is found on p. 18).

complement of eighteen. While Verhoef convoyed the *Santa Catarina* to the German port of Emden, Van Heemskerck himself arrived safely at the Dutch island of Texel with his flagship *White Lion*. Accompanied by VOC directors, he appeared in the Dutch Estates General on 17 July to report upon his tremendously successful voyage.⁷

As Fruin noted, the safe arrival of the *White Lion* and *Santa Catarina* did not put an end to the directors' worries. A report reached Amsterdam in mid-July that Verhoef's crew had appropriated part of the booty and sold Chinese porcelain on the streets of Emden. Worse, the Frisian College of the Admiralty Board had seized four of the lighters that conveyed the carrack's cargo from Emden to Amsterdam. Once again the directors appealed for help to the Dutch Estates General, which sent letters to Dokkum ordering the lighters' release. A new quarrel arose when the lighters finally reached Amsterdam. The VOC directors wished to have sole access to the *Boshuis* (lit. 'tree house'), the storage place designated for the prize goods. The Amsterdam College of the Admiralty Board decided otherwise, however. In order to "prevent all calumny and scandal," it stipulated that two of its members should be present at the *Boshuis* while the directors compiled an inventory of the carrack's cargo. The directors were treated far more leniently by the Dutch Estates General. Since a verdict was not expected any time soon, they received permission to auction off all perishable prize goods, including the *Santa Catarina*'s shipment of raw silk. The Dutch Estates General instructed the Amsterdam College of the Admiralty Board accordingly. The sheriff of Amsterdam had his own ideas on this point. When handbills went up announcing the public sale, he immediately took them down and vehemently protested against the Admiralty Board's alleged encroachment on municipal jurisdiction. The overzealous town magistrate exceeded his authority, however. The burgo-masters of Amsterdam disowned his actions and sided with the

⁷ Dutch National Archives, *Archieven der Admiraliteitscolleges 1350*, unfoliated (minutes of the Amsterdam College of the Admiralty Board of 24 April, 19 & 25 June, and 2, 9 & 15 July 1604): *Resolutiën der Staten-Generaal, 1579–1609* Vol. 13 p. 223 (Resolution of the Dutch Estates General of 17 July 1604); Fruin, 'An Unpublished Work of Hugo Grotius' pp. 18–20.

The third ship, *Alkmaar*, never made it back to The Netherlands. She turned out to be beyond repair when she was laid up in the Bay of Antogil at Madagascar. Yet her valuable cargo reached Amsterdam aboard the *Court of Holland* (*Hof van Holland*) in the spring of 1605.

Admiralty Board instead. They realized that, in this case at least, Amsterdam's commercial interests were best served by seamless cooperation with the Admiralty Board and the Dutch Estates General.⁸

The auction of raw silk went ahead as planned on 15 August 1604, while the remaining booty, consisting of Chinese porcelain and lacquer ware, was sold off on 21 September. On both occasions, the buyers made up "an incredibly vast throng drawn from all nations," as Grotius noted in *De Jure Praedae*. The profits were equally impressive: raw silk alone yielded over two million guilders, for example. When accounts were cast four years later, the gross proceeds amounted to 3,389,722 Dutch guilders, 2 shillings and 2 dimes.⁹

Fruin argued, quite correctly, that no auction could decide the question whether the *Santa Catarina* was good prize or not, and, if it were, who might have a rightful title to the booty. There were three plaintiffs in this court case: the Solicitor General (*Advocaat-Fiscaal*) of Holland, by virtue of his office, Van Heemskerck and his crew, and the Amsterdam VOC directors as caretakers of the defunct United Amsterdam Company. (It had merged with other regional companies in March 1602 to form the VOC.) In accordance with Dutch maritime law, the plaintiffs requested citation of all unknown claimants of the carrack and her cargo, which was granted them on 24 July. For a period of six weeks, the Amsterdam Admiralty Court issued a summons every fortnight, which nobody answered, of course.¹⁰ There were two complications, however. The Hoorn College of the Admiralty Board demanded and received a share of the booty,

⁸ Dutch National Archives, *Archieven der Admiraliteitscolleges 1350*, unfoliated (minutes of the Amsterdam College of the Admiralty Board of 22, 23, 24, 26, 28, 31 July, and 2, 10, 11, 13, 17 August, 1604); Fruin, 'An Unpublished Work of Hugo Grotius' pp. 21–22.

The Admiralty judges were right to distrust the directors regarding the custody of the keys to the *Boshuis*. The famous Flemish merchant Isaac Le Maire was forced to resign his directorship of the Company precisely because he had tampered with the carrack's cargo.

⁹ Fruin, 'An Unpublished Work of Hugo Grotius' pp. 22–23, 28–31; *Commentary on the Law* p. 334; Van Dam, *Beschryvinge van de Oostindische Compagnie* Vol. 6 (RGP 87) p. 477.

¹⁰ Dutch National Archives, *Archieven der Admiraliteitscolleges 1350*, unfoliated (minutes of the Amsterdam College of the Admiralty Board of 24 July, 6, 9 August, 17 & 28 December 1604 and 2 & 3 June 1605); Fruin, 'An Unpublished Work of Hugo Grotius' pp. 20–23.

approximately 30,000 Dutch guilders. At one point, the Solicitor General even claimed the entire prize for the County of Holland. "Citing the law and custom of Holland and West-Friesland," he argued that "the County of Holland, not the East India Company, should enjoy the carrack and cargo captured by Jacob van Heemskerck from the Portuguese in the East Indies." The Estates of Holland decided otherwise in its resolution of 1 September 1604. All claims to the *Santa Catarina* and any booty which the VOC might capture in the East Indies in the future were relinquished and left at the free disposal of the Dutch Estates General and Admiralty Board "as a matter related to the common defense." Arguably, the resolution of the Estates of Holland cleared the way for the verdict of the Admiralty judges eight days later, declaring the carrack and its cargo good prize.¹¹

The verdict of the Admiralty Court, in combination with the unanimity of the Estates of Holland, had narrowed the field of claimants to just two parties, the VOC directors and Van Heemskerck and his crew. True to form, the directors were outright avaricious when it came to awarding their heroic servants. At the directors' request, the Dutch Estates General determined in March 1605 that Van Heemskerck and his crew would receive 4% of the booty *after* the fifth and thirtieth pennies, due to the Admiralty Board and Prince Maurice, respectively, had been deducted from the gross proceeds. Outraged, the Admiral and his men begged the Dutch Estates General to reconsider its decision. Since the VOC waged outright war in the East Indies, they considered themselves on a par with their comrades in the Dutch navy, who were entitled to one sixth of all spoils taken from the enemy. The Dutch Estates General would have nothing of it, however. In future, VOC servants should content themselves with 4% of the net proceeds of any prizes captured from the

The Hoorn College of the Admiralty Board based its claim to the *Santa Catarina* on the fact that the third ship of Van Heemskerck's squadron, the *Alkmaar*, had been fitted out by Hoorn merchants. Yet the deciding factor in all of this was undoubtedly the support which the Hoorn College enjoyed from the Dutch Estates General. The federal authorities considered its financial difficulties serious enough to merit a share of the booty.

¹¹ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 379–380; Fruin, 'An Unpublished Work of Hugo Grotius' pp. 22–26.

An English translation of the resolution of the Estates of Holland will appear in Grotius, *Commentary on the Law of Prize and Booty* Van Ittersum ed. (forthcoming).

Portuguese in the East Indies. Yet the Dutch Estates General was willing to grant the conquerors of the *Santa Catarina* a little bit more—the sailors received 123,380.00 guilders and Van Heemskerck himself 31,500.00 guilders in July 1606, nearly 4% and 1% of the gross proceeds. After deducting 1,476,923 guilders for various costs incurred by the VOC directors, along with the fifth penny due to the Admiralty Board, the shareholders of the United Amsterdam Company were left with 1,307,969 guilders, 2 shillings and 2 dimes in profits, a 100% return on their capital!¹²

According to Fruin, not every stakeholder wished to share in this bonanza. Mennonite shareholders of the United Amsterdam Company were pacifists on principle and hence objected to the capture of the *Santa Catarina*. They allegedly refused their share of the booty or gave it away to the poor. Indeed, they were supposed to have sold VOC stocks *en masse* when they realized the directors prioritized war and privateering over peaceful trade. Fruin argued that Anabaptist divestment had posed the greatest threat to the survival of the infant trading company and, more importantly, that Grotius had been acutely aware of this while writing *De Jure Praedae*. Yet Fruin admitted that he had not found a single Mennonite pamphlet condemning VOC aggression in the East Indies: “of those noble, although unpractical conscientious scruples we do not find a trace in the literature of those times.” In the case of one particularly prominent shareholder, Pieter Lijtgens, he suspected that high moral principle had been admixed with more material concerns in the merchant’s decision to sell all his VOC stock. Fruin pointed out, quite correctly, that Lijtgens had been involved with French attempts to establish a competing company that would limit itself to peaceful trade in the East Indies and thus be far more profitable than the VOC, which was burdened by the high costs of incessant warfare. This, Fruin believed, was the life-or-death issue addressed by *De Jure Praedae*. As he put it himself,

¹² Dutch National Archives, *Staten Gen. 12551.21 (Loketkas processen nr. 21)* unfoliated; Van Dam, *Beschryvinge van de Oostindische Compagnie* Vol. 6 (RGP 87) pp. 471–473, 477; Fruin, ‘An Unpublished Work of Hugo Grotius’ pp. 26–31; Enthoven, *Zeeland en de Opkomst van de Republiek* pp. 207–209.

According to Van Dam, the Admiralty Board’s share of the spoils was 450,000.00 guilders, which exceeded 20% of the net profits. Prince Maurice was entitled to one tenth of all booty captured in European waters and one thirtieth of prizes seized beyond the Line. Van Dam did not list the exact amount pocketed by Prince Maurice from the public sale of the *Santa Catarina* and her cargo.

The [Dutch] East India Company purposed, in concert with the States, henceforth to wage war in the Indies against their country's enemy and to enrich themselves with the booty to be captured from them. But their title to it was disputed and the conscientious scruples which opposed it were used by their enemies as a pretence to call a dangerous enemy into being, side by side with her. It seemed necessary to demonstrate not only before their compatriots, but before all Europe that the Company had a right to act as they intended to do and to refute the pretences behind which commercial rivalry concealed itself.¹³

Fruin's reconstruction of the historical context of *De Jure Praedae* has gone virtually unchallenged since the publication of his article in 1868. It has, in fact, been further refined and revised by various Dutch historians in the twentieth century. When Grotius' correspondence with Jan ten Grootenhuys and Johan Boreel came to light, for example, it confirmed Fruin's suspicion that *De Jure Praedae* and *Mare Liberum* had been expressly commissioned by the VOC directors. The modern editor of Grotius' personal correspondence, P.C. Molhuysen, was responsible for a minor change in the dating of *De Jure Praedae*. Although Fruin believed, on the basis of internal evidence, that *De Jure Praedae* had been finished by the summer of 1605, Molhuysen discovered that Grotius had sent a letter to the Heidelberg councilor George Lingelsheim on 1 November 1606, announcing the manuscript's completion. The colonial historian W.Ph. Coolhaas published the fifteen attestations received by Grotius in October 1604, which belied Fruin's assumption that chapter eleven of *De Jure Praedae* had been written on the basis of Grotius' own research in the VOC archives. The 'book treating of the cruel, treasonous and hostile procedures of the Portuguese in the East Indies' was conclusive proof that Grotius had never done any independent investigations of his own and simply used the materials put at his disposal by the VOC directors. Such revision and refinement has not inspired any major re-examination of the core elements of the Fruin thesis, however. Modern scholarship on *De Jure Praedae* still repeats Fruin's claim that Mennonite dissatisfaction with VOC privateering is the key to the manuscript's overall argument.¹⁴

¹³ Fruin, 'An Unpublished Work of Hugo Grotius' pp. 32, 35–36.

¹⁴ Ibidem p. 40; Fruin, 'Naschrift', *Robert Fruin's Verspreide Geschriften* Vol. III pp. 443–445, published in English as Fruin, 'Postscript', *Bibliotheca Visseriana* (1925) pp. 72–74; Molhuysen, 'Over Grotius' *De Jure Praedae Commentarius* pp. 275–282; *Briefwisseling van Hugo Grotius* Vol. I pp. 44–45, 72; W. Ph. Coolhaas, 'Een bron van het historische gedeelte van Hugo de Groot's *De Jure Praedae*' pp. 421–426.

Yet the historiographical orthodoxy does not dovetail with various pieces of evidence uncovered by Dutch economic historians. Fruin imagined VOC shareholder Pieter Lijntgens to have suffered acutely from the pangs of conscience following the capture of the *Santa Catarina*. In reality, he was a rather unscrupulous character, whose alleged Mennonite sympathies did not preclude a serious involvement in the arms trade. There are other reasons why Fruin's speculations about widespread disaffection among the Mennonite shareholders of the VOC remain precisely that, speculations. In the case of the *St. Jago*, we know of only one Mennonite merchant, Michiel Michielsen van Verlaer, who refused his share of the booty. No reliable evidence exists in the case of the *Santa Catarina*. Fruin made the mistake of relying overmuch on Pieter van Dam, a source from the second half of the seventeenth century. In his account of the early history of the VOC, the lawyer Van Dam made a vague remark to the effect that

there were several inhabitants of these countries, who, because of their tender consciences, refused to profit from the prizes which the Company captured from the Spanish in those times, either refusing the booty outright or giving it to the poor.¹⁵

Nor was Fruin sufficiently critical when he read the correspondence of Johan van Oldenbarnevelt (1547–1619), the political leader of the Dutch Republic, and the diplomatic dispatches of Paul Choart, Seigneur de Buzanval, who served as French ambassador in The Hague from 1592 until 1606. Oldenbarnevelt's correspondence and Buzanval's

An English translation of (part of) Grotius' letter to G.M. Lingelsheim is forthcoming in Grotius, *Commentary on the Law of Prize and Booty*, ed. Van Ittersum. I discuss the composition dates of *De Jure Praedae* and *Commentarius in Theses XI* in the appendices of my article in the *Asian Journal of Social Science*. I hope to publish more on the dating of *De Jure Praedae* and several other early works of Grotius in a short while. Compare Van Ittersum, 'Hugo Grotius in Context: Van Heemskerck's Capture of the Santa Catarina and its Justification in *De Jure Praedae* (1604–1606)' pp. 525, 542–545.

¹⁵ J.W. IJzerman, 'Een en ander over Pieter Lijntgens', *Bijdragen tot de Taal-, Land- en Volkenkunde van Nederlandsch-Indië* 84 (1928) pp. 132–165, particularly pp. 149–153; W.S. Unger, 'De Resolutiën der compagnie op Oost-Indië te Middelburg, 1601–1602', *Economisch-Historisch Jaarboek* 23 (1947) pp. 2–56, especially pp. 26, 28, 29, 34–35, 38–43, 47, 51; *De Oudste Reizen van de Zeeuwen naar Oost-Indië*, 1598–1604 ed. W.S. Unger (The Hague: Martinus Nijhoff, 1948) p. 175; Mary Sprunger, 'Entrepreneurs and Ethics: Mennonite Merchants in Seventeenth-Century Amsterdam' in: *Entrepreneurs and Entrepreneurship in Early Modern Times: Merchants and Industrialists within the Orbit of the Dutch Staple Market* ed. C. Lesger and L. Noordegraaf (Den Haag: Stichting Hollandse Historische Reeks, 1995) pp. 213–221, particularly pp. 213–214, 216–217; Van Dam, *Beschryvinge van de Oostindische Compagnie* Vol. 6 (RGP 87) p. 471.

dispatches reveal that all the scare stories about disgruntled VOC shareholders may ultimately be traced back to one highly unreliable source, the bankrupt Amsterdam merchant Pieter Lijntgens, who fooled both Buzanval and Oldenbarnevelt into believing that Mennonite investors would leave the VOC in droves if given the opportunity.¹⁶

It is difficult to determine to what extent Grotius shared Oldenbarnevelt's fear that "libertines and Anabaptists" would prefer a pacifist French East India Company to the militant VOC. Yet it should be stressed that Grotius never used the term 'Mennonite' or 'Anabaptist' in *De Jure Praedae*. In his introduction, he distinguished between three possible arguments against VOC privateering, all derived from Cicero's *De Officiis* (On Duties):

[A] Some of these critics, guided in a sense by punctilious motives, hesitate to approve of the prize, apparently regarding it as something wrongfully acquired and illegitimate. [B] Others, though they entertain no doubt from the standpoint of legitimacy, seem fearful of bringing some stain upon their reputations by such an act of approval. [C] Again, there may be individuals who have no misgivings regarding the justice of the cause in question and who do not believe that their good name can be impaired thereby, but who nevertheless imagine that this very proposition which at the moment appears to be beneficial and profitable, may eventually result in some still latent loss and harm.¹⁷

Once he had set up his straw man, he proceeded to destroy it in chapters twelve through fifteen of *De Jure Praedae*. VOC privateering did not just meet the requirements of natural justice, but also increased the international reputation of the United Provinces and swelled the coffers of Dutch merchants. Since VOC privateering qualified as just, honorable and beneficial, Grotius concluded that it was in complete accordance with the Ciceronian criteria for moral action. The Lijntgens saga never troubled him as much as it did Oldenbarnevelt. Lijntgens is not mentioned anywhere in *De Jure Praedae* or in his personal papers and correspondence. This cannot be explained by reference to an alleged reluctance on Grotius' part to name and shame people. His discussion in *De Jure Praedae* of the murder of Sebald de Weert suggests otherwise. If he had any fixed opinions on Pieter Lijntgens—and we do not know that he did—he must have been

¹⁶ M.L. van Deventer, *Gedenkstukken van Johan van Oldenbarnevelt en zijn tijd* 3 vols. (The Hague: Martinus Nijhoff, 1860–1865) Vol. II pp. 49–50; IJzerman, 'Een en ander over Pieter Lijntgens', pp. 149–153.

¹⁷ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 5.

more perturbed by the possibility of French competition in the spice trade than the alleged loss of nerve among Anabaptist shareholders of the VOC. A French East India Company that spent no money on offensive warfare, but limited itself to peaceful trade, would be an attractive investment opportunity for his compatriots. Regardless of religious convictions, all investors in the VOC resented its failure to pay dividends in the first eight years of its existence. In a very real sense, VOC shareholders paid the price for the prohibitive costs of its relentless military and naval campaigns against Iberian strongholds in the East Indies.

Indeed, the petitions which Grotius drafted for the VOC directors in March and May 1606 reveal that, if anything, war finance was the Company's biggest problem. Under pressure from the Dutch Estates General, the VOC directors instructed their commanders to blockade and besiege the major Portuguese strongholds in the East Indies, and they allocated all profits from trade and privateering to the war effort. This drastic measure antagonized shareholders, yet failed to cover the spiraling costs of VOC warships, fortresses and garrisons. There was very little left of the Company's original capital of six million Dutch guilders by the time the third VOC fleet set out to sea in May 1606 under the command of Paulus van Caerden. At the request of the Dutch Estates General, the VOC directors even subsidized the Dutch navy to the tune of 250,000 guilders in 1606–1607. As a result, they were obliged to take out large loans to equip new VOC fleets, which were redeemed once valuable cargo arrived from the East Indies. In these straightened circumstances, the Dutch Estates General was the directors' only refuge. Since the VOC charter prohibited new share offerings until 1612, they tried to solve their cash flow problems by petitioning the Dutch Estates General for a) direct tax relief—exemptions from import and export duties, for example—and b) for suitable arrangements with the Dutch Admiralty Board for the perpetual loan or free gift of warships, guns and ammunition. Since the hostilities in the East Indies contributed to the financial and military ruin of the Habsburg enemy, Their High Mightinesses were positively obliged, so Grotius argued, to assist the VOC as much as lay within their power. These, then, were his objectives in writing *De Jure Praedae*.¹⁸

¹⁸ Hans den Haan, *Moedernegotie en grote vaart: een studie over de expansie van het Hollandse handelskapitaal in de 16e en 17e eeuw* (Amsterdam: SUA, 1977) pp. 104–105, 114–116,

3.3 *The Capture of the St. Jago*

Grotius' laudatory account in *De Jure Praedae* notwithstanding, the capture of the *St. Jago* in March 1602 stirred up a hornet's nest of political and legal issues, which took three years to resolve. The carrack and its cargo became a bone of contention between the Zeeland VOC directors, the Middelburg Admiralty Court and the Estates of Zeeland on the one hand and the Dutch Estates General and Estates of Holland on the other. The origin of the problem was the trade embargoes of the Dutch Estates General and Philip III of Spain and Portugal, which had been in force since the winter and spring of 1599. The comprehensive nature of these trade embargoes raised some awkward political and legal questions. If all Iberian shipping was fair game for Dutch privateers, did this mean that the commercial privileges of third parties, and perhaps even the rights of neutrals, could be suspended if their goods were found aboard enemy vessels, for example? Grotius admitted in *De Jure Praedae* that the Dutch trade embargo of April 1599 had resulted in a curtailment of the commercial privileges of the Portuguese New Christians, who resided in large numbers in the Low Countries. Their High Mightinesses had explicitly mandated the confiscation of all neutral goods found aboard ships that were underway from one enemy port to another. Since the *St. Jago* was captured *en route* to Lisbon, they refused to entertain the complaints of the Portuguese New Christians and overturn the verdict of the Middelburg Admiralty Court. Yet they showed far greater respect for the rights of neutrals if the merchant in question happened to be the subject of an allied ruler. The French ambassador Buzanval was enlisted by the Florentine merchant Carletti in his efforts to reclaim the goods that he had transported aboard the *St. Jago*. The envoy lodged several official protests with the Dutch Estates General, on behalf of both the Archduke of Tuscany and Mary de Medici, Queen of France. The diplomatic

119–122, 125–127; Dillen, *Het oudste aandeelhoudersregister* pp. 98–99; Dutch National Archives, Grotius Papers, Supplement I, fol. 374–379; Dutch National Archives, VOC 99 (minutes of the meetings of the Gentlemen XVII of 20 May & 28 Aug., 1606, and 10 Oct. 1607) and VOC 7242 (minutes of the Zeeland Chamber of the VOC of 27 April 1606 and 13 November 1608); Dutch National Archives, *Archieven der Admiraliteitscolleges* 1350 (minutes of the Amsterdam College of the Admiralty Board, 30 December 1604); *Resolutiën der Staten-Generaal, Dertiende Deel, 1604–1606* (RGP 101) pp. 500–501.

pressure proved too much for Their High Mightinesses, who agreed that justice should be done to Carletti and ordered an official review of the verdict of the Middelburg Admiralty Court. After a lot of political wrangling, the Zeeland VOC directors were forced to indemnify Carletti for some, though by no means all, of his losses. The legal questions were never properly resolved, however. Even Grotius was reluctant to discuss the aftermath of the *St. Jago's* capture. The rights of neutrals were passed over silently in *De Jure Praedae*, while the Florentine merchant merited little more than a vague remark in *Annales et Historiae*. The unsightly political infighting that became one of the hallmarks of the Carletti saga, pitting the commercial and political elite of Zeeland against the Estates of Holland and Dutch Estates General, was a far cry from the message that Grotius wanted to convey in chapters fourteen and fifteen of *De Jure Praedae*. These chapters were a ringing appeal to Dutch merchants and magistrates to form a united front against Portuguese tyranny. Grotius made it appear as if the interests of both parties were essentially the same: he expected the VOC directors to continue with trade and privateering in the East Indies and the Dutch Estates General to offer unstinting political and financial support in return. After all, it was in the interests of both parties to win the war against Philip III of Spain and Portugal, which must be waged on many different fronts. The contested verdict of the Middelburg Admiralty Court could not be easily fitted into this picture. It remained unmentioned in *De Jure Praedae* precisely because it threw into sharp relief some of the less appealing aspects of VOC privateering.

The capture of the *St. Jago* was, of course, a story in itself. The Portuguese carrack had reached the island of St. Helena on 14 March 1602, *en route* from Goa to Lisbon. It cast anchor off Cape Paraveles in order to stay clear of the foreign ships that had been sighted in the bay. The *Longboat* and *Zeelandia*, two East Indiamen from Zeeland, did not have any intention, however, of leaving the carrack alone. They hoisted their sails and, after a good deal of maneuvering, managed to get to the windward of the *St. Jago*. A sloop was launched with a trumpeter on board, who exchanged a few words with the crew of the carrack. One of its passengers, Francisco Carletti, recorded the conversation as follows:

Bon voyage, which ship is this?—Bon voyage, ship from India bound for Portugal, which ship is that?—Ship from Zeeland, coming from

the Moluccas. My dear friends, do you need anything? What do you want me to report to our captain?¹⁹

The question remained unanswered: panic broke out aboard the *St. Jago* and a cannon shot was fired at the two approaching ships, which, according to the Zeelanders, killed one of their crew. Carletti noted in his account that

[t]hey took it as a provocation, which unfortunately suited them very well in their desire to fight, and which they had undoubtedly brought about by their own conduct because they needed a clear motive for their assault.²⁰

The *St. Jago* was subjected to a continuous barrage of broadsides for nearly three days. The *Longboat* and *Zeelandia* first destroyed the carrack's sails and rigging and then aimed their follies below the water line. All this time an East Indiaman from Holland, the *White Eagle*, was present at the scene. Its crewmembers did not take sides, however, and contented themselves with salvaging the wreckage washed up by the waves—some of the carrack's cargo fell overboard during the fight. The Hollanders were clearly at pains to stick to the letter of their instructions, which prohibited the use of force except in cases of self-defense. Once the carrack had surrendered, this became an issue for the crews of the *Longboat* and *Zeelandia* as well. Their representatives went aboard the *St. Jago* to express their regrets for what had happened, but also to assert their innocence. According to Carletti, the Zeelanders argued that

we had provoked them by firing a shot—something that the commander of our ship had done. [They added] that they had not sailed

¹⁹ Francesco Carletti, *Reis om de Wereld, 1594–1606* trans. and ed. J.A. Verhaart-Bodderij (The Hague: Kruseman's Publishers, 1965) p. 200.

In the case of the *St. Jago*, there are extant accounts of its capture written by victims like Francisco Carletti and by the beneficiaries, the Zeelanders. The Italian merchant Francisco Carletti embarked at Goa on Christmas Day 1601 and kept a diary during the carrack's fateful voyage. Originally published in Florence in 1606, the diary was translated into English as Francisco Carletti, *My Voyage Around the World* trans. and ed. Herbert Weinstock (New York: Random House, 1964).

There is some secondary literature on the Carletti case as well. Compare Enthoven, *Zeeland en de opkomst van de Republiek* pp. 195–199, and C.G. Roelofsen, 'Het trieste slot van een reis om de wereld in het begin van de zeventiende eeuw: de affaire Carletti', *Mededelingen van de Nederlandse Vereniging voor Zee-geschiedenis* 20 (March 1970) pp. 18–24.

²⁰ Carletti, *Reis om de Wereld* p. 200.

towards us in order to fight, which the Holland ship had not done either. [They said] that they had not even been authorized to fight according to the instructions of the merchants and company directors, and the guidelines contained in the commissions of the Estates General of the United Provinces. . . . and Count Maurice of Nassau. Except in cases of emergency, that was, or if someone prevented them from travelling to and from the Moluccas and other places in the Indies, where they allegedly went to trade as merchants, and not for the sake of plunder.²¹

The case for self-defense was made even more forcefully in ‘Short Report’, a description of the carrack’s capture based on the crew’s testimony, which the Zeeland VOC directors submitted to the Dutch Estates General shortly after the ships’ homecoming on 6 July 1602.²²

According to ‘Short Report’, both Zeeland ships had reached St. Helena on 6 March 1602, where they had taken in water and fresh food. After ten days, the *Zeelandia* and *Longboat* had been joined by the *White Eagle*. This East Indiaman from Amsterdam had been in great distress due to the high mortality rate of its crew. Laurens Bicker, the commander of the Zeeland squadron, had transferred some of his sailors to the *White Eagle* and postponed his own departure from St. Helena for a few more days in order to await the arrival of its companion, the *Black Eagle*. Meanwhile, the incriminating correspondence of the captain of the *St. Valentine* had been found in a Catholic chapel on the island. According to ‘Short Report’, these letters had been addressed to the commanders of all Portuguese carracks that might call at St. Helena after the departure of the *St. Valentine*. Its putative contents had put the Zeelanders on their guard. The *St. Valentine* had lost valuable lading in a gale off the Cape of Good Hope, a situation that its captain had allegedly sought to remedy by a failed attempt to intercept an East Indiaman from Holland or Zeeland.²³ At least, that was the impression which the Zeeland VOC directors wanted to convey to the Dutch Estates General. In reality, the captains of homebound Portuguese carracks had no wish to endanger their rich cargoes and sought to avoid the heavily armed warships and merchantmen of the Dutch Republic as much as possible. ‘Short Report’ continued its story with another half-truth. When

²¹ Carletti, *Reis om de Wereld* p. 204.

²² *De Oudste Reizen van de Zeeuwen naar Oost-Indië* pp. 138–144.

²³ *Ibidem* p. 142.

the *St. Jago* was first sighted, Bicker had allegedly been unable to determine whether it was the long-awaited *Black Eagle* or a different ship. Approaching the *St. Jago*, Bicker had belatedly realized his mistake and set out a sloop with a trumpeteer, who had been given the unenviable task of inviting the captain of the *St. Jago* aboard Bicker's flagship, the *Zeelandia*. The captain had declined the invitation, however, and spoken "prideful words in Portuguese, not wanting to have anything to do with them."²⁴ More ominously, he had warned the trumpeteer that if the *Zeelandia* and *Longboat* did not leave at once, he would know how to deal with them. The trumpeteer's report must have been music to the ears of Bicker, who decided to take a closer look at the carrack. When the *Longboat* came alongside the *St. Jago*, a conversation had ensued between the Zeeland and Portuguese crews, which 'Short Report' reported in words broadly similar to Carletti's:

[t]hose of the *Longboat*, approaching the galleon, inquired after its home port and itinerary. They answered that it was stationed in Lisbon, but coming from Goa. Our men replied that they were Zeelanders on their way home from Sumatra, laden with pepper. Then the galleon suddenly hoisted the blood flag and fired three shots, one after another, damaging the *Longboat*. [Our men] called out in Portuguese "for the sake of Christ's passion, do not shoot at us for we have come to talk to you in friendship."²⁵

The *St. Jago* had continued its barrage, however, which provoked the Zeelanders to return fire, "since two of them had been killed and another one critically injured."²⁶ 'Short Report' brilliantly succeeded in persuading the Dutch Estates General that Bicker's assault on the *St. Jago* had been an act of self-defense and that its capture had been a just reward for damages sustained. As we shall see below, the author of *De Jure Praedae* could not agree more!

On what happened next, 'Short Report' and Carletti's account were in broad agreement. After the carrack's surrender, the Zeelanders immediately sent carpenters on board to replace its main mast and stop several leaks below the waterline—the *St. Jago* was in real danger of sinking. The carrack's passengers and crew were granted their lives, but imprisoned aboard the *Zeelandia* and *Longboat* for nearly

²⁴ Ibidem pp. 142–143.

²⁵ Ibidem p. 143.

²⁶ Ibidem p. 143.

twenty-three days. According to Carletti, they were robbed of all their valuables, seated indiscriminately in the holds of the Zeeland ships, wearing only white shirts and trousers, and fed small portions of boiled rice and spoiled hardtack, an extremely unhealthy diet that killed four or five prisoners. While the *White Eagle* continued on to Holland, the victorious Zeeland ships took the Portuguese carrack to the island of Juan Fernando Noronha, located off the coast of Brazil. When the ships reached the uninhabited island on 6 April 1602, the Portuguese passengers and crew were released and put ashore. The Zeelanders constructed a longboat for the benefit of their former prisoners. When it was ready, the crew of the *St. Jago* set sail for Pernambuco, a voyage of three hundred miles, in order to seek help. The passengers remained behind on Juan Fernando Noronha with some water and provisions, supplied by the Zeelanders. The *Longboat* and *Zeelandia* left the island on 13 May 1602, with the carrack in tow. Since the Zeeland vessels sailed much faster than the carrack, they reached the island of Walcheren on 7 July 1602, the *St. Jago* arriving twenty days later.²⁷

Grotius discussed the seizure of the *St. Jago* in the closing argument of chapter eleven of *De Jure Praedae*, effusively praising the Zeelanders for their valiant deeds, which he explicitly equated with Van Heemskerck's capture of the *Santa Catarina*. The Zeelanders set an example worthy of emulation, as they were the first to exact damages from the Portuguese for injuries sustained. In all probability, Grotius used 'Short Report' for his reconstruction of the carrack's capture. He emphasized that, while displaying "great patience," the Zeelanders had been provoked "by a hostile response to their overtures." The suspicious nature of the correspondence that had been discovered in a Catholic chapel at St. Helena was proof that "those

²⁷ Compare *De Oudste Reizen van de Zeeuwen naar Oost-Indië* pp. 143–144 and Carletti, *Reis om de Wereld*, pp. 205–206, 209–210.

As Carletti noted ruefully, Portuguese carracks were generally so crammed with spices and other merchandise that cargo had to be stored on deck, thus preventing the effective use of armaments in battle. He had to admit that the Zeelanders were expert navigators and sailed eminently seaworthy ships. The *Zeelandia* and *Longboat* did not face the problem of overloading, as their cargoes were evenly distributed throughout their holds.

According to Carletti, the precious stones belonging to the *St. Jago's* passengers were worth approximately 300,000 *rijksdaalders*, which accounted for 25% of the value of the carrack's original lading. Enthoven adopts these figures on p. 196 of his *Zeeland en de opkomst van de Republiek*.

same Portuguese were under orders to make war upon them.” Yet the Zeelanders had never used it as a pretext for maltreating the passengers and crew of the *St. Jago*. Grotius noted with approval that the Zeelanders had been “mindful in victory of their own humanity rather than of the injuries for which others were responsible.” The Zeelanders had saved the *St. Jago* from a certain shipwreck and taken their Portuguese prisoners to “an island lying off the coast of Brazil,” where the latter were provided with “supplies of every kind” and a small boat “to facilitate contact with the mainland.”²⁸ Interestingly, Grotius ‘forgot’ to mention the fact that the *White Eagle* had not participated in the assault on the *St. Jago*. Yet he did make the point that

The Hollanders were somewhat slower even in resorting to such action. Not a single seizure was made by them prior to the capture of the carrack by [Van] Heemskerck, which took place when they were particularly stirred by the disasters visited upon their friends, and after they themselves had endured seven years of injuries and losses in the East Indies, resulting from the violence of the perfidy of a hostile people.²⁹

It was a fitting conclusion to chapter eleven of *De Jure Praeadae*. In seizing the *Santa Catarina*, Van Heemskerck had allegedly followed the example of the Zeelanders and obtained reparations from the Portuguese that were long overdue, considering the severe damage

²⁸ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 215.

Although ‘Short Report’ is not extant among his personal papers at the Dutch National Archives, Grotius must have consulted it for his reconstruction of the capture of the *St. Jago*. Otherwise he could hardly have made the observation that “the Zeelanders had learned that those same Portuguese were under orders to make war upon them.” Only ‘Short Report’ mentioned the letters of the captain of the *St. Valentine*, allegedly stashed away in a Catholic chapel at St. Helena.

It should be noted that Johan Boreel (1577–1629), eldest son of Zeeland VOC director Jacob Boreel, was a good friend of Grotius. He is frequently mentioned in Grotius’ correspondence. If the Zeeland VOC directors did not provide Grotius with a copy of ‘Short Report’, Johan Boreel may well have obtained it for him.

The verdict of the Admiralty judges in Middelburg justified the carrack’s capture in similar terms as ‘Short Report’. Undoubtedly, the Zeeland VOC directors had used ‘Short Report’ in the court proceedings.

Compare *Briefwisseling van Hugo Grotius* Vol. I pp. 59, 60, 79, 87, 92, 115, 118, 119, 128, 150, 194, 228, 295; *Briefwisseling van Hugo Grotius* Vol. XVII pp. 41–43, 49–50; Zeeland Provincial Archives, *Directe en Indirecte Belastingen, 5 (Register van de rolle der saken, ghedient hebbende voor de Ghecommitteerden raden ter admiraliteyt in Zeeland)* fol. 90r–107v.

²⁹ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 215.

that had been inflicted on the early Dutch voyages to the East Indies. In the light of so many documented cases of Portuguese aggression, Grotius simply marveled that “any doubt should be entertained as to whether that seizure was a rightful act.”³⁰

3.4 *Challenging the Verdict of the Middelburg Admiralty Court: The Portuguese New Christians*

Yet the Dutch Estates General had few illusions about the realities of Dutch privateering and purposefully refrained from applauding the capture of the *St. Jago*. Confronted with a minefield of legal and political issues, Their High Mightinesses decided to tread carefully. The Admiralty judges at Middelburg received several letters from the Dutch Estates General urging them to inventory the cargo of the *St. Jago* with great diligence and care. All papers found aboard the car-rack were to be sent to The Hague, together with a copy of the ship’s manifest (*boeck van de ladinge*), as the international reputation of the United Provinces was at stake. The Admiralty judges were told to give equal consideration to all claimants, whether native or foreign, “as the case is already much talked about, both here and abroad, receiving more attention daily.” With good reason did the Dutch Estates General dread international scrutiny of the case that was pending before the Middelburg Admiralty Court. The Portuguese New Christians of Antwerp and Amsterdam had already petitioned for the restitution of their trade goods on 5 July 1602.³¹

Their High Mightinesses were seriously embarrassed by the complaints of the Portuguese New Christians. The Dutch historian Emanuel van Meteren remarked on this when describing the capture of the *St. Jago* in his *History of the Low Countries War* (1613). As Van Meteren noted, “Portuguese merchants” enjoyed extensive commercial privileges in the Low Countries. The Dutch Estates General had issued a charter in October 1577 which gave Portuguese New Christians the same rights as other foreign merchants in the Low

³⁰ Ibidem.

³¹ *Resolutiën der Staten-Generaal, Twaalfde Deel, 1602–1603* (RGP 92) pp. 89, 210, 299–300.

The letters which the Dutch Estates General addressed to the Middelburg Admiralty Court were dated 8, 18 and 19 July and 2 August, 1602.

Countries, a charter that had been reconfirmed in June 1581 and February 1588. They could not be prevented from doing business by anyone, as their persons and property were under the protection of the federal government of the United Provinces. In July 1592, the Dutch Estates General stipulated that those merchants who lived in Antwerp or other towns recaptured by the Army of Flanders would be treated as if they were resident in neutral places, although passports were henceforth required to travel across enemy lines. The Portuguese New Christians were also exempted from the draconian trade embargo of April 1599, which prohibited all trade between the United Provinces and the dominions of Philip III of Spain and Portugal. In October 1600, the Dutch Estates General gave them explicit permission to ship merchandise freely between the Low Countries and Brazil, even if the itinerary included Lisbon as a port of call. Needless to say, “the merchants from the Portuguese nation” enclosed copies of all these charters and resolutions when they petitioned the Dutch Estates General for the restitution of the cargo of the *St. Jago*. The Dutch Estates General certainly believed they had a point. After reviewing the supplication of 5 July 1602, Their High Mightinesses declared that justice should be done to the petitioners, “who claim part or all of the lading,” as soon as the *St. Jago* arrived in Zeeland.³²

³² Emmanuel van Meteren, *Historie der Nederlandscher ende haerder Naburen Oorlogen ende Geschiedenissen tot den Jaren M.VL.^cXII*. (Den Haag, 1635) fol. 479r-v; *Resolutiën der Staten-Generaal, Twaalfde Deel, 1602–1603* (RGP 92) pp. 210, 299–300.

As Boyajian has shown in *Portuguese trade in Asia under the Habsburgs*, just five New Christian families—the Tinoco, Fernandes Silveira, Gomes Denis e Solis, Brandão, and Vaaz de Souza—owned on average 70% of the cargo returned to Lisbon via the Cape route in the years 1600–1602. Even though the King’s pepper took up most of the carracks’ cargo space, it was worth just 10% of the total value of goods that reached Lisbon. Cotton and silk from India, as well as diamonds and other valuable stones accounted for three-quarters of the value of the carracks’ cargoes. According to Boyajian, the shipment of private goods via the Cape route was worth nearly fourteen million Dutch guilders (1.4 million pounds sterling), which made it “[t]he dominant exchange between Europe and Asia.”

New Christian family cartels, created through intermarriage, were able to dominate this trade due to a sophisticated network of agents and correspondents that linked Antwerp and Lisbon with the Portuguese strongholds in Brazil and Asia. The younger generation was invariably sent overseas to apprentice themselves with kinsmen in Bahia or Goa and, eventually, to take the places of these experienced merchants when the latter returned to Portugal in old age.

A Dutch ban on maritime trade with Flanders, imposed in 1595, compelled the New Christians to rearrange their distribution network. Since Antwerp could no longer be used as an entrepôt of Portuguese colonial products, additional trading

Yet the Dutch Estates General was battling against strong vested interests. The Middelburg Admiralty judges had to be reminded three times, for example, to send a copy of the ship's manifest to The Hague, together with all the papers found aboard the carrack. The Admiralty judges were not of ill will, but totally dependent on the cooperation of the Zeeland VOC directors. This was indeed the problem. The directors stalled for months, for example, in returning personal papers to Francisco Carletti, an Italian passenger aboard the *St. Jago*, who, like the Portuguese New Christians, had petitioned the Dutch Estates General for the restitution of his trade goods. The Admiralty judges were caught right in the middle. In a surprise move, they declared the *St. Jago* and its entire cargo good prize on 21 August 1602. The verdict was unwelcome news for the "Portuguese nation residing in Antwerp and Amsterdam," which had tried to persuade the Zeeland public prosecutor that the charters granted them by the Estates General were fully applicable to the *St. Jago*. According to Van Meteren,

[t]he Portuguese of Antwerp and Amsterdam challenged the public prosecutor on the basis of these privileges and safeguards, [their possessions] being free goods, yet the public prosecutor remonstrated that all these privileges did not help them in the case of the galleon, which was declared good prize by the Admiralty of Zeeland after lengthy procedures.³³

posts were established in Northern Germany (Hamburg and Emden), the Low Countries (Amsterdam and Rotterdam), as well as France (Rouen and Nantes). The old and new communities of Sephardic Jewry were in close contact with each other at the turn of the seventeenth century. Its members still professed the Catholic faith, at least in outward form, and continued to conduct business along family lines.

Sephardic Jews routinely petitioned the governments of England and the United Provinces for the restitution of Portuguese trade goods that had been intercepted by the navy ships and privateers of both countries. On 5 July 1602, New Christian merchants of Amsterdam and Antwerp jointly petitioned the Dutch Estates General for the restitution of merchandise belonging to their families, confident that business correspondence aboard the *St. Jago*, along with the ship's manifest, would establish their claim.

Compare James C. Boyajian, *Portuguese Trade in Asia under the Habsburgs, 1580–1640* (Baltimore & London: The Johns Hopkins University Press, 1993) pp. 33–38, 42 (quotation), 73–74; tables 2 and 3; appendix B; Jonathan I. Israel, 'The Economic Contribution of Dutch Sephardic Jewry to Holland's Golden Age, 1595–1713', *Tijdschrift voor Geschiedenis* 96 (1983) pp. 505–535, reprinted in Jonathan I. Israel, *Empires and Entrepreneurs: The Dutch, the Spanish Monarchy and the Jews, 1585–1713* (London, 1990) pp. 417–447; *Resolutiën der Staten-Generaal, Twaalfde Deel, 1602–1603* (RGP 92) pp. 289–294.

³³ Enthoven, *Zeeland en de opkomst van de Republiek* p. 197; Van Meteren, *Historie der Nederlandscher ende haerder Naburen Oorlogen* fol. 479v.

As a measure of last resort, the Portuguese New Christians appealed to the Zeeland VOC directors and even appeared at their meeting in Middelburg on 10 October 1602. Yet the directors were in no mood to soften the blow. As they explained, it was their task to look after the interests of the Company's many shareholders, including a good number of "widows and orphans." They could not entertain a request for the restitution of legitimate spoils. The New Christians would be equally disappointed in the reaction of the Dutch Estates General.³⁴

Considering their erstwhile support for the New Christians, it may seem surprising that Their High Mightinesses at first acquiesced in the verdict of the Admiralty Court. The Dutch Estates General did indeed experience a conversion of sorts. According to the minutes of 1 and 3 August 1602, it briefly entertained the possibility of having the entire cargo of the *St. Jago* confiscated for the common cause. The financially strapped Dutch navy, in particular the Zeeland College of the Admiralty Board, could certainly have used the money. There was another complication as well. The Middelburg court case soon became caught up in political sparring over yet another prize ship. New Christian merchants from Antwerp and Amsterdam petitioned the Dutch Estates General on 31 August 1602 for the restitution of 2500 chests of sugar captured by Jacob van Wassenaer, Lord Obdam, whose navy squadron had intercepted a richly laden Brasilman off the Portuguese coast in early July. The merchants' supplication resulted in an increasingly acrimonious exchange of letters between the Dutch Estates General and the Rotterdam College of the Admiralty Board, lasting well over three months. Eventually, the Rotterdam College had to back down and return the sugar chests to their rightful owners. Yet the Dutch Estates General felt obliged to make some

Five Middelburg merchants had been granted power of attorney by the New Christian merchant communities in Amsterdam and Antwerp, viz. Pieter and Marcus de la Palma, Pieter de Slachmulder, Lieven de Meulneer and Salomon Janszoon.

The verdict of 21 August 1602 still allowed both Francisco Carletti and the Portuguese New Christians to lodge official protests with the Admiralty Court. Predictably, the Admiralty Court dismissed their protests and confirmed its verdict on 23 October 1602, although it made an exception for Carletti. Compare Zeeland Provincial Archives, *Directe en Indirecte Belastingen, 5 (Register van de rolle der saken, ghedient hebbende voor de Ghecommitteerden raden ter admiraliteyt in Zeeland)* fol. 90r–108r.

³⁴ *De Oudste Reizen van de Zeeuwen naar Oost-Indië* p. 190.

policy changes: an edict of 12 September 1603 offered greater protection to Dutch privateers and curtailed New Christian trading privileges. Henceforth the ships and merchandise of the “Portuguese of Brazil and St. Thomé” would automatically be declared good prize if they traded with enemy ports like Lisbon, or shipped goods between enemy ports and neutral ports. The exigencies of war finance took priority over the commercial privileges enjoyed by the Jewish communities in the Low Countries. The edict of 12 September undoubtedly deterred the Portuguese New Christians from petitioning the Dutch Estates General when the *Santa Catarina* was brought up in Emden ten months later.³⁵

Grotius cited the edict in *De Jure Praedae*, where it became an important plank in his argument. He presented it as a clarification of the trade embargo which the Dutch Estates General had decreed in April 1599, prohibiting all trade with the dominions of Philip III. In Grotius’ view, the edict of September 1603 also served to justify the VOC’s military and naval offensive in Asia. Whereas the Dutch had done the Portuguese no wrong, the latter had repaid this kindness by committing abominable outrages against the Dutch in the East Indies. The edict of 12 September was an appropriate counter measure: it punished ‘Portuguese’ merchants who had abused the trading privileges accorded them by the Dutch Estates General. Like many of his contemporaries, Grotius used the generic term ‘Portuguese’ when discussing legislation that affected the New Christians. He could be forgiven for his failure to acknowledge their separate ethnic and religious identity, which was far from clear in the first decade of the seventeenth century. Yet he may also have had his own reasons for tainting the New Christians with the same brush as their compatriots. In chapter eleven of *De Jure Praedae*, he created the impression that the Portuguese had inflicted innumerable injuries on Dutch

³⁵ On 31 August 1602, New Christian traders petitioned the Dutch Estates General for the restitution of 2500 chests of sugar. The petitioners included Nicolaes Rodriques Devora, Duarte Ximenez and Anthonio Faillero from Antwerp, and Duarte Fernandes, Francisco Pinto de Brito, Hendrick Garcez, Manuel Rodriques Veiga and Fernando de Mercado from Amsterdam. Dutch merchants from Middelburg, Rotterdam, and Amsterdam, acting on behalf of New Christians living in Antwerp and Lisbon, submitted similar petitions to the Dutch Estates General in the months following.

Compare *Resolutiën der Staten-Generaal, Twaalfde Deel, 1602–1603* (RGP 92) pp. 105, 289–294, 300–301, 630; Enthoven, *Zeeland en de opkomst van de Republiek* p. 188; Van Meteren, *Historie der Nederlandscher ende haerder Naburen Oorlogen* fol. 479v.

merchants and their indigenous trading partners in the East Indies. He could make this point even more forcefully by juxtaposing these grievous injuries with the favors bestowed upon 'Portuguese' merchants in the Low Countries.³⁶

Grotius emphasized the magnanimous treatment which 'Portuguese' merchants had received from the Dutch Estates General in the face of a widening war. The Dutch Estates General had maintained their trading privileges even when "the two peoples became enemies," following Philip II's accession to the Portuguese throne in 1580. Yet Grotius could not deny that the Habsburg succession had put great pressure on Luso-Dutch relations. Philip II had allegedly induced his new subjects "to adopt toward the Dutch the attitude already taken by the Castilians, Leonese, Aragonese," and persuaded them to contribute both money and ships to his war against England and the Dutch Republic. In Grotius' view, the Spanish Armada of 1588 had consisted for the most part of "Portuguese ships and Portuguese sailors."³⁷ It was not surprising, then, that 'Portuguese' merchants who traded in the Low Countries had requested further confirmation of their privileges, "influenced by their consciousness of the wrongs that their own people were inflicting upon the Dutch." The federal government of the United Provinces had complied, of course, and steadily widened the purview of their privileges, even licensing their trade with enemy ports in Flanders and Brazil.³⁸

Grotius did not fail to contrast the benevolence of the Dutch Estates General with the tyrannical policies of the King of Spain and Portugal, which had resulted in the ceaseless harassment and intimidation of Dutch merchants wherever they went. The Spanish trade embargoes were a case in point. Dutch merchantmen that called on Iberian ports had allegedly been in constant danger of impoundment ever since 1582. Their owners had become used to paying "the highest conceivable prices in order to redeem the vessels seized," thus

³⁶ Nowhere in *De Jure Praeadae* did Grotius identify the Portuguese merchants in Amsterdam and Antwerpen as Sephardic Jews. Yet he changed his mind later in life. Looking back at the events of 1598, Grotius noted in *Annales et Historiae* that "refugees from Portugal, a section of the surviving Jews of that realm, preferred the greatness of Amsterdam above that of other towns, some out of fear for inquiries into their ancestral worship, while others were hopeful of larger profits." Compare Grotius, *Nederlandsche Jaerboeken en Historien* p. 330 and Grotius, *Remonstrantie nopende de ordre dije in de landen van Hollandt ende Westvrieslandt dijen gestelt op de Joden (1614)* ed. J. Meijer (Amsterdam, 1949).

³⁷ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 172-173.

³⁸ *Ibidem* p. 174.

incurring losses that were “absolutely ruinous to many of the most firmly established houses.” What was worse, Archduke Albert, the ruler of the Spanish Netherlands, had made “a public promise of free transit,” only to revoke it under pressure from Philip III when Dutch ships were already on their way to the Iberian Peninsula. The trade embargo that Philip III decreed in the autumn of 1598 had been an unmitigated disaster for Dutch merchants:

[s]hips and merchandise were confiscated, the accounts of all agents were examined, and the men themselves (so grave is the crime of extending either kindly services or trust to Spaniards!) were imprisoned and dragged off to punishment, many thousands of them being delivered to the galleys.

No wonder, then, that some Dutch merchants had decided to bypass the Iberian markets altogether and buy spices and other colonial wares in the East Indies directly. Unfortunately, Spanish and Portuguese tyranny had already spread to the far corners of the world. One might assume, so Grotius argued, that the subjects of Philip III would behave “less savagely” in the colonies, so far away from their native land and “the wanton caprice of the magistrates.” Nothing could be further from the truth. This much was clear from the testimonies of Dutch merchants “who have approached the shores of Portuguese colonies, either because they were borne there by violent tempests, or because they sought to do business with the Portuguese.” Grotius proceeded to discuss a “few” notable examples of the “exceedingly savage conduct” of the Portuguese, paraphrasing the sworn statements put at his disposal by the VOC directors. Although his account was “admittedly incomplete,” his readers could draw their own conclusions from “the principal facts” of chapter eleven of *De Jure Praedae*, which Grotius considered incontrovertible evidence of a concerted campaign by the Spanish and Portuguese to obstruct Dutch trade everywhere.³⁹

³⁹ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 174–179.

Philip II ordered the seizure of foreign vessels in 1582, 1583 and 1586–1588, mainly to secure ships for his naval operations. Geoffrey Parker shows that things were different in 1585. It was Cardinal Granvelle who advised Philip II to impound all Dutch ships in Spanish and Portuguese harbors. According to Granvelle, the Dutch rebels were heavily dependent on their trade with the Iberian Peninsula and could not survive without it. As a result, 123 Dutch ships were detained in Lisbon, Setubal and Andalusia alone.

In the light of Portuguese mistreatment of Dutch merchants, it was not difficult for Grotius to justify the edict of the Dutch Estates General of 12 September 1603, which curtailed New Christian trading privileges. He interpreted the edict as both a retaliatory measure and a response to the changing demands of naval warfare. We need to keep in mind, of course, that he utterly failed to distinguish between the New Christians and their compatriots. Significantly, he discussed the edict in chapter thirteen of *De Jure Praedae*, which justified Van Heemskerck's capture of the *Santa Catarina* as an act of public war. In his view, the edict was a direct consequence of various measures taken by the federal authorities of the United Provinces to contravene the trade embargo of Philip III. The Dutch Estates General had decreed a counter embargo in April 1599 with the full intention of "taking the offensive against the Spaniards in the kingdoms and provinces which the latter had occupied," witness the Dutch naval expedition to the Canaries and Prince's Island that summer. More importantly, the counter embargo had been formulated in such a way as to leave open the possibility of

[e]xacting reimbursement and reparations for the losses inflicted, with the aid not only of vessels belonging to the state but also of the individuals whose interests were concerned.

Modern Dutch historians have a point when they argue that the First Voyage was not a direct response to the Habsburg trade embargoes. Cornelis de Houtman set sail for the East Indies a decade after Philip had ordered the seizure of Dutch ships in Iberian harbors. A better explanation of the First Voyage might be the Dutch naval blockade of the Flemish coast, starting in 1584, which made it impossible for Antwerp to function as the distribution center for colonial and Iberian wares in Northern Europe.

Yet contemporaries like, for example, the French ambassador Buzanval and the Dutch historian Van Meteren, were convinced that the King of Spain and Portugal had only himself to blame for Dutch interloping in the East Indies. The regent elite of Holland and Zeeland did nothing to discourage this assumption, if only because it justified the establishment of the VOC as a dual trading and privateering company.

Compare Geoffrey Parker, *The Grand Strategy of Philip II* (New Haven and London: Yale UP, 1998) pp. 173–174, 355; Enthoven, *Zeeland en de opkomst van de Republiek* p. 109–150; Van Meteren, *Historie der Nederlandscher ende haerder Naburen Oorlogen* fol. 396r; Buzanval's letters to Villeroi, dd. 1 August 1599 and 20 February 1600, printed in *Lettres et Négociations de Paul Choart, Seigneur de Buzanval, Ambassadeur Ordinaire de Henri IV en Hollande et de François d'Aerssen, Agent des Provinces-Unies en France (1598,1599)* ed. G.G. Vreede (Leiden, 1846) p. 251 and *Lettres et Négociations de Paul Choart, Seigneur de Buzanval, Ambassadeur Ordinaire de Henri IV en Hollande (Année 1600)* ed. G.G. Vreede (Utrecht, 1853) pp. 20–21.

Yet the trading privileges of New Christian merchants were a major obstacle to the privateering bonanza eagerly anticipated by the Dutch Estates General. As Grotius put it, “some persons” had used letters of free transit “in a manner foreign to their intent and for forbidden purposes.” Did he have the Jewish claimants of the *St. Jago* in mind when he wrote this? The edict of September 1603 had decided the issue in favor of Dutch merchants-cum-privateers, and deservedly so. Grotius could only wish that more of his compatriots would use their private means to wage war on Spain and support the common cause. As for the New Christians, the Dutch Estates General still guaranteed them “complete security” within the territory of the United Provinces, yet declared their possessions to be “spoils of war” if captured in transit between two hostile localities or between an enemy port and a neutral port, “[f]or example, from the Island of Saõ Thomé or from Brazil to Lisbon, or vice versa.” The VOC’s claim to the *Santa Catarina* was clearly upheld by this edict. Grotius noted that Van Heemskerck had not just seized booty belonging to “the subjects of the King of Spain,” but intercepted the *Santa Catarina* while sailing from Macao, “a hostile locality,” to Lisbon, “a city of Portugal.” It must be regarded as a revealing slip of the tongue that he identified Lisbon as the carrack’s final destination. He knew perfectly well that the *Santa Catarina* had been underway to Malacca at the time of capture. Yet the cases of the *St. Jago* and *St. Catarina* may well have become mixed up in his head when he considered the edict’s implications for the New Christians. Grotius undoubtedly realized that they had a stake in the *Santa Catarina* as well as in the *St. Jago*, even though the edict of September 1603 prevented them from actually claiming it in the summer of 1604. They were the first victims of the total war around the globe that Grotius wished the VOC to pursue under the aegis of the Dutch Estates General.⁴⁰

⁴⁰ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 302–305; Enthoven, *Zeeland en de opkomst van de Republiek* pp. 181–188.

Grotius’ arguments did not go unchallenged: New Christian claimants of the *St. Jago* asserted that a) they had always qualified as “Dutch merchants,” that b) they had traded freely with the enemy since the early days of the Dutch Revolt, just like other Holland and Zeeland merchants, and that c) it had been unheard of to “punish innocent people for the crimes of others, and equate the upstanding citizens of these provinces and other neutrals with the archenemy, the Spanish and Hispanophiles.” Compare Zeeland Provincial Archives, *Directe en Indirecte Belastingen, 5* (*Register van de rolle der saken, ghedient hebbende voor de Ghecommitteerden raden ter admiraliteyt in Zeeland*) fol. 106r–107v.

3.5 *Challenging the Verdict of the Middelburg Admiralty Court:
Francisco Carletti*

If it was relatively easy for Grotius and the Dutch Estates General to restrict New Christian trading privileges in the face of the widening naval war against Philip III, they had a much harder time justifying the despoliation of neutrals. When the Middelburg Admiralty Court declared the *St. Jago* and its cargo good prize on 21 August, 1602, the Florentine merchant Francisco Carletti immediately initiated legal proceedings to have the verdict reversed, while bringing political pressure to bear on the Zeeland authorities as well. Carletti did not hesitate to appeal to Prince Maurice and the Dutch Estates General, for example, and enjoyed the full support of the Grand Duke of Tuscany and his niece, the Queen of France, both of whom wrote letters on his behalf. The French ambassador in The Hague did not fail to point out to Their High Mightinesses that the verdict of the Admiralty Court could have untoward repercussions in international politics. If Carletti was not adequately compensated for his losses, the Grand Duke might well retaliate by closing the harbor of Leghorn (Livorno) to Dutch shipping, for example. Nor would it benefit their alliance with France to leave the case unresolved. The Estates of Holland and Dutch Estates General needed little more convincing. Yet it proved exceedingly difficult to bring the Estates of Zeeland round to this point of view. The province of Zeeland was, quite literally, on the frontline of the war with Philip III of Spain and Portugal and economically quite dependent on the Indies trade. The Estates of Zeeland were reluctant to antagonize the VOC directors or deny the fruits of privateering to the cash-strapped Zeeland College of the Admiralty Board, which was entitled to a fifth of the booty. The stalling tactics of the provincial authorities were largely successful. After three years of political wrangling and intrigue, Carletti was left without a satisfactory legal remedy, as even Grotius had to admit in *Annales et Historiae*. Indeed, Grotius' nugatory comments on the legal proceedings in Zeeland reveal much about the political and ideological assumptions that informed his defense of VOC privateering.

When Carletti stepped ashore in Middelburg on 6 July 1602, he could not have divined that it would take him "three years and nine months" to obtain a meager compensation for the merchandise that he lost in the seizure of the *St. Jago*. His possessions consisted of a large quantity of silk, 2,000 ounces of musk and several 'curiosities'

intended for the Grand Duke of Tuscany. Following the *St. Jago's* surrender, Carletti had prevailed upon Laurens Bicker, the commander of the Zeeland squadron, not to treat him like the other passengers, but to take him to Middelburg instead. He had cleverly reminded Bicker of the Dutch Republic's valuable trade with Leghorn, which happened to be under the jurisdiction of his dread lord and sovereign, the Grand Duke of Tuscany. The Carletti case would have international repercussions; so much was clear right from the start. The Florentine petitioned the VOC directors for the restitution of his impounded trade goods just six days after the homecoming of the *Zeelandia* and *Longboat*. The merchant described himself in the petition as "the subject of a prince not at war with their country" and emphasized his special status as a neutral in the conflict between Spain and the United Provinces. This was no concern of the VOC directors in Middelburg, who rejected his request for a gentleman's agreement and curtly declared that they would meet again in court. According to Carletti, the directors were so indiscrete as to tell the whole town that a verdict was preferable, even necessary, to

[p]revent some from drawing the conclusion that, should my possessions be returned, they would have to make restitution to other passengers from neutral countries as well.⁴¹

The VOC directors intended to claim the *St. Jago* in its entirety for the United Zeeland Company, which had financed Bicker's voyage. Most of them were shareholders of the United Zeeland Company, which had merged with regional trading companies in Holland to form the United Dutch East India Company in March 1602. They did not let the grass grow under their feet and successfully made their case to both the Admiralty judges and the Zeeland political authorities. Even before the carrack's arrival in Zeeland, the VOC directors had brought over four lawyers from The Hague "to debate

⁴¹ Carletti, *Reis om de Wereld, 1594–1606* pp. 205, 214–16, 218; *De Oudste Reizen van de Zeeuwen naar Oost-Indië* p. 201; Dutch National Archives, *Eerste Afdeling, Admiraliteits Colleges* nr. 2451 (Minutes of the Zeeland College of the Admiralty Board, 25 November 1602).

The Middelburg VOC directors were not totally opposed to Carletti's claims. They noted in their minutes of 3 August 1602 that they would take Carletti to Holland in order to give him the opportunity to address the half-yearly meeting of the Gentlemen XVII (*Heven XVII*), the federal board of the VOC. See Unger, *De Oudste Reizen van de Zeeuwen naar Oost-Indië* p. 184.

the issue in the Admiralty Court.” This phalanx of jurists must have been extremely persuasive: the New Christian claimants of the *St. Jago* could not prevent its wholesale confiscation on 21 August 1602, for example. Yet the legal proceedings were far from over. The VOC directors decided to recruit yet another lawyer in The Hague on 16 September. The jurist Dumer was asked to travel into Zeeland as soon as possible and “plead on behalf of the Company in the matter of the captured galleon.” It was an advantage, of course, that the VOC directors were hand in glove with the public prosecutor of Zeeland (*Fiscael van’t Landt*) and other provincial authorities. Four directors visited the public prosecutor shortly after 2 October 1602 to obtain “whatever he had put to paper regarding the captured galleon,” which was then taken to Jan van den Warcke, Pensionary of the Estates of Zeeland, “to ask for an opinion.” Van der Warcke’s opinion was not exactly disinterested advice either—various members of the Estates of Zeeland were VOC shareholders and, more importantly, doubled as Admiralty judges. The directors were uncommonly bounteous in anticipation of the verdict of the Middelburg Admiralty Court. They indulged the province’s political elite with a sampling of the finest porcelain found aboard the carrack, along with the most expensive spices and drugs. Prince Maurice, who happened to be the First Noble of Zeeland, was offered the most exclusive presents, including a canopy, a golden sword hilt, a silver peacock and two ounces of ambergris. Yet the collusion between the province’s mercantile and political elites could only go so far. Under pressure from Prince Maurice and the Dutch Estates General, the Admiralty judges made special arrangements for Carletti on 30 October 1602. They gave the VOC directors permission to sell the carrack’s entire cargo, but stipulated that the proceeds of the silk, musk and other merchandise claimed by Carletti would go to the rightful owner, yet to be determined.⁴²

⁴² Unger, *De Oudste Reizen van de Zeeuwen naar Oost-Indië* pp. 183, 187, 189–190, 192; Enthoven, *Zeeland en de opkomst van de Republiek* p. 197; Zeeland Provincial Archives, *Directe en Indirecte Belastingen*, 5 (*Register van de rolle der saken, ghedient hebbende voor de Ghecommiteerden raden ter admiraliteyt in Zeeland*) fol. 108r; Dutch National Archives, *Eerste Afdeling, Admiraliteits Colleges nr. 2451* (minutes of the Zeeland College of the Admiralty Board, 25 November 1602).

The United Zeeland Company was a merger of the regional trading companies (*voorcompagnieën*) of Middelburg and Veere. Its directorship included Adriaen ten Haeff and Jacob Boreel, along with former business associates of Balthasar de Moucheron, though not the Flemish *émigrée* merchant himself.

In the four months that followed his arrival at Middelburg, the Florentine merchant had succeeded in bringing international pressure to bear on the Republic's federal authorities. His first memorandum was received by the Dutch Estates General on 3 August 1602. While in The Hague, he discussed his difficulties with the French ambassador, whom he persuaded to intercede on his behalf. Buzanval informed the Dutch Estates General on 22 August that both the French Queen and the Grand Duke of Tuscany had taken pity on Carletti and submitted their letters together with his own recommendation. In deference to the ambassador, the Dutch Estates General immediately forwarded these references to the Admiralty judges at Middelburg, who reacted defiantly. They considered the Queen's recommendation a mere *carte blanche*, a preprinted letter that allowed Buzanval to fill in the beneficiary's name. What was worse, they dared to denounce it as such in the presence of Buzanval's secretary, who accompanied Carletti back to Middelburg. Buzanval was "very disturbed" when the news reached him on 2 September, compelling him, for honor's sake, to lodge an official complaint with Oldenbarnevelt and Albert Joachimi, Zeeland's representative in the Dutch Estates General. Undaunted by this setback, the Florentine merchant traveled to the headquarters of the Dutch army at Grave, where he met with Prince Maurice on 7 September. The Stadtholder sympathized with the merchant's plight, yet claimed to have little authority in commercial affairs, certainly as compared to the Holland and Zeeland regents. Carletti had no choice but to return to Middelburg and defend his claim in court. All was not lost, however. The Dutch Estates General wrote again to the Admiralty judges on 15 September and enclosed two more letters of recommendation, written by Prince Maurice and the Grand Duke of Tuscany, respectively. The judges were admonished to give serious consideration to these letters in their deliberations on the *St. Jago*. The Dutch Estates General, mindful of the country's alliance with the King of France and Grand Duke of Tuscany, had no intention of leaving the Zeelanders alone. Its interference in the Carletti case emboldened the Admiralty judges, albeit temporarily. They informed the VOC directors on 30 October that the cargo of the *St. Jago* could be auctioned on account only, and they refused to dismiss the Florentine's claim to at least a part of the booty.⁴³

⁴³ *Resolutiën der Staten-Generaal, 1579–1609, Twaalfde Deel, 1602–1603*, pp. 89–90; Carletti, *Reis om de Wereld, 1594–1606*, pp. 212–213.

Yet these arrangements were not to the taste of the Dutch Estates General, which soon had second thoughts about the auction in Middelburg. A memorandum of Buzanval, which urged the auction's postponement until the Admiralty judges had considered Carletti's case, was discussed in the meeting of 8 November. The Dutch Estates General resolved to write again to the Admiralty judges to remind them of the importance of the Grand Duke's friendship and encourage them to concede whatever was necessary "for the good of the country." The Middelburg Admiralty Court decreed on 25 November that none of the merchandise that might properly belong to Carletti could be offered for sale. The judges showed themselves eager to patch up relations with the Grand Duke as well. In early January 1603, they decided to acknowledge the receipt of two letters sent by the Medici ruler and reassure him that

[w]e will do justice, and expeditiously so, in order to take away the bad opinion which His Highness might have of this College, lest any ships of this country be impounded in Italy, or any other inconveniences should follow from this case.⁴⁴

The VOC directors refused to cooperate, however, and used every possible means to dispute Carletti's claims to the booty. The Admiralty judges were told on 4 December that the silk cargo of the *St. Jago* had been auctioned off in its entirety, including a large quantity claimed by Carletti, their interdiction notwithstanding. The judges also learnt that, in his desperation, the Florentine merchant had made a bid for his own goods and even offered to pay the regular market price, only to be rebuffed by the VOC directors. The latter professed to be all for "expedition," yet continued to drag out the proceedings. When Adriaen ten Haeff and Jacob Boreel met with the Admiralty judges on 10 December, they brought along Carletti's personal papers, which the Florentine had been forced to surrender soon after the *Zeelandia's* homecoming. According to Ten Haeff and Boreel, these papers showed that "his father had been granted a certificate of naturalization by the King of Spain." This was a serious accusation, which, if proven, completely invalidated the merchant's claim to the booty. The directors were asked to return

⁴⁴ *Resolutiën der Staten-Generaal, 1579–1609, Twaalfde Deel, 1602–1603*, p. 90; Dutch National Archives, *Eerste Afdeling, Admiraliteits Colleges nr. 2451* (minutes of the Zeeland College of the Admiralty Board, dated 17 & 25 Nov. 1602, 8 Jan. & 3 Feb. 1603).

either the original papers or certified copies to Carletti, who needed these to prepare his own defense. The Admiralty judges repeated their request several times over the course of the winter, all to no avail. Carletti was still without his personal papers as late as 22 March 1603. Yet his greatest setback came five months later, on 12 August, to be precise, when the Admiralty Court declared the entire cargo of the *St. Jago* good prize “for the benefit of the common cause and the claimants.”⁴⁵

As Carletti realized himself, the Dutch Estates General faced an uphill battle with the Zeeland authorities, who were inclined to protect their province’s economic interests and assert their hard-won independence from Holland, regardless of the harm done to the United Provinces as a whole. Yet the triumph of Zeeland particularism owed as much to the vacillation of the federal authorities, who burdened the Admiralty judges with conflicting orders in the spring of 1603. The judges were told “to administer the law according to their conscience” in March, yet received more letters in support of Carletti in April, the Dutch Estates General urging full restitution of his belongings. Nothing happened, however, for another three months. Then, on 2 August, the public prosecutor of Zeeland asked the Admiralty Court to expedite the case. He was supported in his demand by a letter from the Dutch Estates General, received a week later. The Admiralty judges made a last-ditch effort to bring the parties together for an out-of-court settlement, to no avail. VOC director Jacob de Weert refused any kind of mediation and insisted on a verdict instead. This was the proverbial last straw for the Admiralty judges, who were sick and tired of being pushed around by the VOC directors and the Dutch Estates General. Three days later, they summarily dismissed Carletti’s claim to the *St. Jago*.⁴⁶

The verdict turned out to be a Pyrrhic victory for the VOC directors. It served as a wake-up call for the federal authorities, who promised the Florentine merchant a new trial at their meeting

⁴⁵ Dutch National Archives, *Eerste Afdeling, Admiraliteits Colleges nr. 2451* (minutes of the Zeeland College of the Admiralty Board, dated 4, 16 & 30 Dec. 1602, and 4, 13, 18 & 25 Jan. 1603, and 1 Feb. & 22 March 1603); Dutch National Archives, VOC 7241 (1601–1604), fol. 97v (minutes of the Zeeland Chamber of the VOC, 10 December 1602); *Zeeland en de opkomst van de Republiek* p. 198.

⁴⁶ Dutch National Archives, *Eerste Afdeling, Admiraliteits Colleges nr. 2451* (minutes of the Zeeland College of the Admiralty Board, 2 & 9 Aug. 1603); *Resolutiën der Staten-Generaal, 1579–1609, Twaalfde Deel, 1602–1603*, p. 626.

of 22 August 1603, and gave him permission to contest any mistake that the Admiralty judges might have made in reaching their verdict. A month later, the Dutch Estates General decided that seven judges should be added to the Admiralty Court in Middelburg, thus doubling its quorum, in order to assure Carletti a fair hearing. These so-called *revisors* included two members of the Dutch Estates General, four judges who sat on the bench of the Court of Holland and the High Court (*Hof van Holland* and *Hoge Raad*, respectively), along with Holland's Auditor General (*rekenmeester*). Yet it would take another eighteen months before the *revisors* finally made their way to Middelburg.⁴⁷

The reasons for the delay were twofold. First, both Carletti and the VOC directors objected to the composition of the enlarged bench and had two judges removed before its first sitting-day. Second, the Estates of Zeeland continued to drag its feet and advised the Admiralty judges to do the same. It was not difficult to persuade the latter, as many of them doubled as members of the Estates of Zeeland anyway.⁴⁸

There were sound political, military and economic reasons for the Estates of Zeeland to be so recalcitrant. It could ill afford to antagonize the VOC directors, as the import and re-export of Asian wares already accounted for fifteen percent of the province's volume of trade. Geographically speaking, Zeeland was quite literally at the frontline of the war with Spain and dependent on the Dutch navy for its security. Yet the Zeeland College of the Admiralty Board had great

⁴⁷ *Resolutiën der Staten-Generaal, 1579–1609, Twaalfde Deel, 1602–1603*, p. 628; Zeeland Provincial Archives, *Staten van Zeeland 1218 (Ingekomen stukken Gecommitteerde Raden van Zeeland, 1603)*, unfoliated (Dutch Estates General to the Estates of Zeeland, dated 15 Nov. and 14 Dec. 1603).

The Dutch Estates General appointed seven *revisors* on 20 September 1603 to hear the Carletti case on appeal. These *revisors* initially included Bijl and Albarda (two members of the Dutch Estates General), Hiniosa, Cromhout and Roosendael (three judges of the *Hoge Raad* and *Hof van Holland*), Verius (the Pensionary of Amsterdam), and Elias van Oldenbarnevelt (the Pensionary of Rotterdam and elder brother of the Advocate of Holland). When Elias van Oldenbarnevelt excused himself on 29 September, the federal authorities first sought to replace him with Louis Meganck, a member of the Brabant Council, which governed the Republic's military conquests in the province of Brabant. Yet Meganck sent his apologies two days later. The Dutch Estates General finally made Jan Basius, Auditor General of Holland, one of the *revisors*. Another change occurred on 15 November 1603, when the Dutch Estates General substituted Schoterbosch, one of the judges of the *Hof van Holland*, for Verius.

⁴⁸ *Resolutiën der Staten-Generaal, 1579–1609, Twaalfde Deel, 1602–1603*, p. 628, and *Dertiende Deel, 1604–1606* p. 223; Enthoven, *Zeeland en de opkomst van de Republiek* p. 198; Roelofsen, 'Het trieste slot van een reis om de wereld in het begin van de zeventiende eeuw: de affaire Carletti' p. 22.

difficulty fitting out a sufficient number of warships to cordon off the port of Antwerp, protect the province against Spanish invasion and convoy Zeeland merchantmen through the English Channel. Its revenues had plummeted as a result of the trade embargoes decreed by Philip III in December 1598 and the Dutch Estates General in April 1599. The cash-strapped Zeeland College simply could not do without its share of the *St. Jago*, the customary twenty percent tax on booty. The account books of 1603 clearly show what difference one carrack could make for its precarious finances. Prize money suddenly jumped to three hundred and fifty thousand Dutch guilders *per annum* and topped all other revenues of the Zeeland College combined, including three hundred thirty thousand Dutch guilders in import and export duties (*convooiën* and *licenten*), all because of the *St. Jago*!⁴⁹

The Zeeland VOC directors did not want the Holland jurist Pieter Gerritszoon Schaep to serve on the appeals court—he had sided with Carletti at least once—and objected to two Holland judges appointed as *revisors*. The Dutch Estates General discontinued Schaep as *judex ordinarius* of the Middelburg Admiralty Court and found two substitutes for the Pensionaries of Amsterdam and Rotterdam. Carletti's *bête noire* was Jacob van Campen, member of the Estates of Zeeland and future brother-in-law of Hugo Grotius. The Dutch Estates General removed Van Campen from the case because of a potential conflict of interest: his wife Martha was the daughter and heir of the late Pieter van Reigersberch, director of the United Zeeland Company. The Estates of Zeeland, especially those members responsible for the province's day-to-day government (*Gecommitteerde Raden*) doubled as the Zeeland College of the Admiralty Board and Middelburg Admiralty Court.

Holland and Zeeland had been a single county until the late Middle Ages, when a separate assembly was created for Zeeland. The Dutch Revolt had accelerated the loosening of ties, although a few joint institutions remained, such as the University of Leiden and the appeals courts for civil and criminal cases, *Hof van Holland* and *Hoge Raad*.

See J.H. Kluiver, *De soevereine en independente staat Zeeland: de politiek van de provincie Zeeland inzake vredesonderhandelingen met Spanje tijdens de Tachtigjarige Oorlog tegen de achtergrond van de positie van Zeeland in de Republiek* (Middelburg: Zwarte Arend, 1998) pp. 84–99.

⁴⁹ Contemporaries realized that the carrack's confiscation was a Godsend for the cash-strapped Zeeland College of the Admiralty Board. On 1 August 1602, the French ambassador Buzanval wrote to an unknown correspondent: "believe me, they need this sustenance for without it [= *St. Jago*] their maritime forces would go to pieces." The VOC directors paid the Zeeland College fifty thousand Flemish pounds (= f300,000) in twenty-four installments. The first payment was made on 20 December 1602, the last on 4 August 1603.

Compare Kluiver, *De soevereine en independente staat Zeeland* pp. 59,60,61 65, 67–71, 86–91, 93–95 and table 5; Enthoven, *Zeeland en de opkomst van de Republiek* pp. 132–141, 163–170, 198; Royal Library in The Hague, KB 73 C 32–33: "Negotiations, propositions et lettres de Buzanval" (1597–1606), 18th century scribal copy, Vol. II p. 89.

Although they zealously guarded their own interests, the Estates of Zeeland and VOC directors were perfectly aware of the international ramifications of the Carletti case. They feared jeopardizing the province's lucrative trade with France, for example, which made up fifty-seven percent of its European commerce. The VOC directors sought to forestall such untoward consequences with a charm offensive at the French court. In early December 1603, they decided to honor both the Grand Duke of Tuscany and the King of France with some exquisite presents. An ornate bed of state, which Carletti had already intended for the Medici ruler, was sent to François van Aerssen, the Dutch agent in Paris, who received instructions to show it to Henry IV before shipping it off to Florence. In addition, he should present the French monarch with an ivory rhinoceros horn and "the porcupine belonging to the Italian." Yet the VOC directors had reckoned without the Queen of France, who steadfastly stood by Carletti. She refused to accept any of their gifts, which were promptly returned to Middelburg. Their shameless audacity had not paid off; if anything, it had backfired upon them.⁵⁰

The directors' inept scheming at the French court only served to provoke the Grand Duke of Tuscany and was deeply embarrassing to the Dutch Estates General and Estates of Holland. The Grand Duke resumed his correspondence with the Dutch Estates General and demanded a speedy resolution of the Carletti case. Unless the VOC directors restored to the rightful owner the presents that had been offered to his niece and returned Carletti's other belongings as well, he would be forced to seek compensation himself and impound Dutch ships in the harbor of Leghorn (Livorno). His fulmination was sufficient

⁵⁰ Unger, *De Oudste Reizen van de Zeeuwen naar Oost-Indië* p. 201.

In consultation with the Council of State (*Raad van State*), the VOC directors seriously considered offering the Grand Duke of Tuscany the tapestries (*thehansel*) that Carletti had already selected for him. It is not clear from their minutes whether the tapestries were indeed sent off to Florence. Carletti's own account does not mention them at all. Compare Carletti, *Reis om de Wereld, 1594–1606* p. 217.

Grotius noted in chapter fourteen of *De Jure Praedae* that, in the case of the *Santa Catarina*, "the greatest princes" had accepted "the gifts sent them out of these very spoils." Henry IV of France and James I of England had implicitly condoned the carrack's capture, so Grotius argued, by graciously accepting the precious gifts which had been selected for them by the Amsterdam VOC directors. Compare Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 334; Royal Library in The Hague, KB 73 C 32–33: "Negotiations, propositions et lettres de Buzanval" (1597–1606), 18th century scribal copy, Vol. II pp. 698–699, 706–708 (Buzanval to Villeroi, 4 & 16 Oct. 1604); Fruin, 'An Unpublished Work of Hugo Grotius' pp. 28–30.

to sway Their High Mightinesses, who concluded that justice should be done to Carletti in order to “maintain the authority, honor, and reputation of our country among all kings and princes.” They forwarded the grand ducal letter to Middelburg and urged an out-of-court settlement “to retain His Highness’ friendship and consideration.” When the Estates of Zeeland still refused to cooperate, the Estates of Holland lodged an official complaint. The Holland authorities warned their colleagues in Middelburg that they would exact damages from Zeeland merchants if the Grand Duke should carry out his threats. At long last, the Zeeland authorities fell into line with the Dutch Estates General and Estates of Holland.⁵¹

In April 1605, the *revisors* could finally travel to Middelburg to hear the case on appeal. They still needed the cooperation of the Admiralty judges, however, even though the latter had dismissed Carletti’s claims almost two years earlier. It soon transpired that the Admiralty judges were in no mood to grant further concessions. The Florentine merchant, who expected a quick verdict in his favor, was told to settle his suit amicably. The *revisors* informed him that they were powerless to counter the “intrigues” of the Zeelanders. Courtesy of the *revisors’* mediation, an agreement was reached whereby

[t]he directors granted f13,000 to Carletti, not because they feared the verdict from the appeals court—their arguments were watertight—but because they wished to oblige the Estates General and show their respect for the recommendations of the Queen of France and Grand Duke of Tuscany.⁵²

This was the most the *revisors* could do for Carletti. They traveled back to The Hague and were reimbursed by him for their expenses, seriously depleting the plaintiff’s pockets. The hallowed traditions of the Dutch legal profession also required Carletti to spend his last

⁵¹ Carletti, *Reis om de Wereld, 1594–1606* pp. 218–219.

The Levant trade was extremely important to Holland, but not to Zeeland. Compare Jonathan I. Israel, *Dutch Primacy in World Trade, 1585–1740* (Oxford: Clarendon Press, 1989) pp. 96–101; Marie-Christine Engels, *Merchants, Interlopers, Seamen and Corsairs: The ‘Flemish’ Community in Livorno and Genoa, 1615–1635* (Hilversum, Verloren, 1997) pp. 47–123, 155–169; Kluiver, *De soevereine en independente staat Zeeland* pp. 62–63.

⁵² Carletti, *Reis om de Wereld, 1594–1606* p. 224.

The agreement of 18 April 1605 contained two other important articles, which stipulated that a) Carletti renounced all his claims on the VOC directors, and that b) his case did not create a binding precedent. In other words, the VOC directors could not be required to follow a similar procedure in the future.

farthing on a lavish meal for his lawyers, lasting into the wee hours of the night. The *revisors* were not indifferent to his plight, however: they toasted their host many times over dinner, all at Carletti's expense, of course.⁵³

The political and legal wrangling that followed the capture of the *St. Jago* was undoubtedly known to the Amsterdam VOC directors. In the early autumn of 1603, representatives of each of the VOC chambers drew up a joint memorandum "regarding prize and booty" for the Dutch Estates General. Among other things, the Gentlemen XVII (*Heren XVII*) demanded that "all goods and persons captured in any Spanish or Portuguese ship will be considered good prize, even if some inhabitants of these countries or neutrals claim those as their possessions." If the response of the Dutch Estates General was unsatisfactory—the VOC directors were curtly reminded in November 1603 to do the enemy all possible harm in the East Indies—this may well have induced the Amsterdam VOC directors to commission an apology for their own prize, the *Santa Catarina*.⁵⁴

Significantly, Grotius never mentioned Carletti by name in either *De Jure Praedae* or *Annales et Historiae*. He could not plead ignorance, however, being on intimate terms with two key players in the Carletti case: Johan van Oldenbarnevelt, *de facto* leader of the Estates of Holland and Dutch Estates General and the French ambassador Buzanval, frequently mentioned in his correspondence as *legatus noster* ("our envoy"). A bachelor until the summer of 1608, Grotius may have shared rooms in The Hague with Johan Boreel, a practicing lawyer himself and eldest son of Zeeland VOC director Jacob Boreel. The Carletti case could easily have come up in conversation between them. After all, Grotius attached great importance to the seizure of the *St. Jago* in *De Jure Praedae*.⁵⁵

⁵³ Carletti, *Reis om de Wereld, 1594–1606* p. 224.

⁵⁴ Dutch National Archives, VOC 99, fol. 120v (*memorie der poincten diemen sal versoeken aende Ed. Heeren Staeten Generael beroerende de princen ofte veroverde goederen*).

Although the memorandum is undated, it is inserted right between the minutes of the meetings of the Gentlemen XVII on 15 August and 24 October, 1603. The Gentlemen XVII were the Company's highest governing body and made up of representatives of all VOC chambers.

⁵⁵ Buzanval and Johan Boreel are frequently mentioned in Grotius' correspondence. Some of Grotius' poems sing their praises as well. Compare *The Poetry of Hugo Grotius: Original Poetry, 1604–1608* ed. Edwin Rabbie (Assen: Van Gorcum, 1992) pp. 73, 80, 83, 86, 88, 90, 192–195; *Briefwisseling van Hugo Grotius* Vol. I pp. 23, 25, 41, 49, 53, 59, 60, 73, 74, 76, 79, 87, 92, 115, 118, 119, 128, 150, 165, 194, 228, 295 and *Briefwisseling van Hugo Grotius* Vol. XVII pp. 41–43, 49–50.

As noted earlier, the story of the *St. Jago's* capture was narrated in great detail in the *historica* chapter of *De Jure Praedae*. Grotius' boundless admiration for Zeeland privateering was clear in other parts of the manuscript as well. He conceded in chapter twelve that "the Hollanders themselves did not begin the armed conflict, but merely joined the forces of the Zeelanders, or the East Indians, who were initiating that conflict." Van Heemskerck's seizure of the *Santa Catarina* could be justified "on the ground of injuries inflicted upon its allies and friends (such as the Zeeland Company)." In Grotius' estimation, the Hollanders should follow where Laurens Bicker had led so valorously. The VOC could not be successful at either trade or war unless it continued the aggressive policies of the United Zeeland Company and took revenge upon the Portuguese for the harm they had done in the East Indies to Dutchmen and natives alike.⁵⁶

Grotius may well have refrained from discussing the Carletti case in *De Jure Praedae* precisely because he considered Zeeland privateering worthy of emulation. The status of neutral goods aboard enemy ships raised cumbersome legal questions, which lacked easy answers. As Grotius noted in *Annales et Historiae*, his history of the Dutch war of independence, which he wrote concurrently with *De Jure Praedae*:

It was unclear whether the goods of Italians, found in the captured ships, could be considered good prize. This case was resolved by means of an agreement that reconciled equity with the law of war.⁵⁷

Such half-hearted compromises could hardly be a suitable topic for *De Jure Praedae*. The Amsterdam VOC directors expected a clear-cut defense of privateering in the East Indies, without any kind of uncertainty or ambiguity. As always, Grotius was perfectly willing to oblige them.

There were other reasons why Grotius omitted the Carletti case from *De Jure Praedae*. The Middelburg VOC directors and Zeeland

The first editor of Grotius' correspondence, P.C. Molhuysen, asserted that Boreel and Grotius had roomed together in The Hague, without, however, providing any evidence. Edwin Rabbie, the modern editor of Grotius' poetry, doubts this particular assertion of Molhuysen. Yet he admits that Grotius and Boreel became fast friends when they both practiced as lawyers in The Hague. Compare *Briefwisseling van Hugo Grotius* Vol. I p. 59, and *The Poetry of Hugo Grotius: Original Poetry, 1604–1608* p. 74.

⁵⁶ Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 281–282.

⁵⁷ Grotius, *Nederlandsche Jaerboeken en Historien* p. 448.

authorities had vied with each other as well as with the Dutch Estates General for nearly three years, which could hardly be called an edifying spectacle. Indeed, it contrasted sharply with Grotius' idealized notion of Dutch merchants and magistrates as, quite literally, comrades in arms. A formal discussion of the Carletti case would have detracted from Grotius' efforts to strengthen the Amsterdam VOC directors in their resolve to wage all-out war against the Portuguese, while persuading the Dutch Estates General to

promote and protect, with the favorable treatment accorded at the outset, this enterprise which is opportune in the highest degree.⁵⁸

It was best not to remind Their High Mightiness of the Carletti case, which testified to the very real disadvantages of rampant privateering. If the war in the East Indies became a free-for-all, even the staunchest allies of the United Provinces would inevitably demand reparations for harm done to their subjects. The capture of goods belonging to neutrals was clearly the Achilles' heel of early modern privateering. As a proponent of total war, Grotius studiously ignored the problem in *De Jure Praedae*.

3.6 *A French East India Company?* *Political Developments in Paris and The Hague, 1604–1606*

The political and legal wrangling that followed the seizures of the *St. Jago* and *Santa Catarina*, though bad enough, was just one of many problems faced by the VOC directors while Grotius was writing *De Jure Praedae*. They had great difficulty maintaining unity within their own ranks, for example. There was a real danger that the VOC would break up into its constituent parts, the regional trading companies of Holland and Zeeland. The Flemish *émigrée* merchants Balthasar de Moucheron and Isaac le Maire resigned their VOC directorships in 1603 and 1605, but continued to make life difficult for the Company. These ambitious businessmen had once been major stakeholders in the defunct regional trading companies, and both became involved in attempts to create a French East India Company

⁵⁸ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 365.

after they had left their VOC posts. In 1609, Le Maire was the head of a consortium of merchants that speculated in VOC stock and purposely brought down the Company's share price, thus endangering its credit worthiness. Six years later, Le Maire financed the circumnavigation of his son Jacob le Maire and the pilot Gerrit Schouten, who discovered a new southeast passage by rounding Cape Horn, all in an attempt to undermine the VOC's monopoly of Dutch trade with Asia. It were former VOC directors, not to mention disaffected shareholders, who posed the greatest threat to the Company's commercial and political interests in the first twenty years of its existence.⁵⁹

It was perhaps inevitable that the merchants of northeastern France should try to establish direct trade with the Spice Islands and Japan following the Peace of Vervins of 1598. Some traders of Dieppe entered into a partnership with Balthasar de Moucheron and obtained royal letters patent in 1604, which gave them the exclusive right to send voyages into the Indian Ocean for fifteen years. Yet they were unable to dispatch a single vessel before Henry IV's death in 1610, due to fierce opposition from the Duc de Sully, the French finance minister and a committed Huguenot, and François van Aerssen, envoy of the United Provinces to the French Court.⁶⁰

The Dutch Estates General realized that, in principle, nobody could prevent Henry IV from incorporating a French East India Company or granting his subjects a monopoly on trade between France and Asia. Their High Mightinesses had exercised the exact same sovereign powers when they established the VOC in March 1602. Yet they refused to stand idly by when Henry IV sought to enlist Dutch merchants for this pet project, first Balthasar

⁵⁹ Hans den Haan, *Moedernegotie en grote vaart : een studie over de expansie van het Hollandse handelskapitaal in de 16e en 17e eeuw* (Amsterdam: SUA, 1977) pp. 104–105, 120–122; J.G. van Dillen, *Het oudste aandeelhoudersregister van de Kamer Amsterdam der Oost-Indische Compagnie* (The Hague: Martinus Nijhoff, 1958) pp. 33–34, 112; F.W. Stapel, *Geschiedenis van Nederlandsch Indië* 6 vols. (Amsterdam, 1939) Vol. III pp. 107–108; R.C. Bakhuizen van den Brink, *Isaac le Maire* (Amsterdam, 1865) pp. 27–55.

⁶⁰ Donald F. Lach, and Edwin J. van Kley, *Asia in the Making of Europe* 3 vols. (Chicago and London: University of Chicago Press, 1993) Vol. III: *A Century of Advance* pp. 391–392; Henry Weber, *La Compagnie Française des Indes, 1604–1875* (Paris, 1904) pp. 51–61; J.H. Stoppelaar, *Balthasar de Moucheron : een bladzijde uit de Nederlandsche handelsgeschiedenis tijdens den tachtig-jarigen oorlog* (The Hague: Martinus Nijhoff, 1901) pp. 89–90.

de Moucheron and then Pieter Lijntgens, the biggest VOC shareholder (on paper, at least). Oldenbarnevelt wrote one letter after another to the French monarch in order to warn him against the nefarious schemes of “Anabaptists and libertines,” and even suggested that the projected establishment of a French East India Company was part of a Spanish conspiracy to undermine the Dutch Republic. As Oldenbarnevelt’s protégé, Grotius showed himself to be equally anxious in *De Jure Praedae*. He must have known that Henry IV’s support for French trading voyages to the East Indies posed infinitely greater dangers to the VOC than Carletti’s claims to the cargo of the *St. Jago*. The situation became even more worrisome when Henry IV, disappointed in Balthasar de Moucheron, turned for help to the Mennonite merchant Pieter Lijntgens. The latter boasted that Anabaptist disapproval of Dutch privateering in the East Indies would result in a massive dumping of VOC shares as soon as the opportunity offered itself to invest in a pacific French trading company. No wonder, then, that Grotius expressed deep concerns in *De Jure Praedae*, denouncing the “mistaken convictions” of those “who betrayed their own possessions to the enemy because some conscientious scruple prevented them from fighting.”⁶¹

It would be unwise to take these jeremiads at face value. For all Grotius’ misgivings, Mennonite divestment would have had little adverse effect on the VOC for the Company counted few, if any, pacifists among its most important shareholders. Nor was Lijntgens the scrupulous Anabaptist that he appeared to be to Henry IV and Buzanval. As the Amsterdam agent of Ten Haeff and Boreel, he never had any qualms about purchasing guns, arms and ammunition for the Zeeland voyages to the East Indies, for example. It cannot be denied, however, that many VOC shareholders were displeased at the poor returns on their investment. They did not receive a penny in dividends in the first eight years of the Company’s existence. The VOC directors reinvested all profits from trade and privateering, primarily to finance the war in the East Indies. The costs of warfare were so prohibitive, in fact, that absolutely nothing was left of the subscribed capital of six million Dutch guilders (£600,000) within four years of the Company’s establishment. In these straitened financial circumstances, it was essential for the VOC directors

⁶¹ Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. II p. 49; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 1, 3.

to retain the support of the Dutch Estates General. In the spring of 1606, Grotius drafted petitions on their behalf entreating Their High Mightinesses to either grant the VOC immediate relief from the twenty percent tax on booty or to lend it more warships, guns and ammunition.

These petitions are discussed in the next section in relation to Grotius' argument in *De Jure Praedae*. It was never Grotius' intention to curry favor with the Company's few Mennonite shareholders or to make them abandon their pacifist principles. Instead, he sought to raise the spirits of the VOC directors and explicitly appealed to the Dutch Estates General to take its responsibility vis-à-vis the Company. He reasoned that VOC privateering was just, honorable and beneficial—perhaps not for the unfortunate shareholders, but certainly for the directors and the Dutch Estates General—and he insisted that Dutch merchants and magistrates cooperate closely for the greater good of the Dutch commonwealth.

Grotius made this argument against the backdrop of a diplomatic row between Paris and The Hague that ruined Henry IV's plans to establish direct trade between France and Asia via the Cape route. More than anything else, the specter of a French East India Company, employing Dutch merchants and mariners, persuaded the Dutch Estates General to back the VOC to the hilt. Grotius tried to capitalize on Their High Mightinesses' sense of obligation towards the VOC, both in his draft petitions and in *De Jure Praedae*. If the VOC had to compete with other European trading companies, it should be relieved of some of the burdens of war in order to create a level playing field in commercial terms. The current section analyzes the twists and turns of Franco-Dutch diplomacy in 1604–1606, which clearly form an important part of the historical context of *De Jure Praedae*.

Balthasar de Moucheron had scarcely become a VOC director when, in March 1602, Henry IV invited the successful *émigrée* merchant to Paris in order to discuss matters “of the utmost importance to His Majesty's service.” Three months later Buzanval submitted a memorandum to the Dutch Estates General asking permission for De Moucheron to travel into France and, more importantly, to resign his VOC directorship. The ambassador remained tightlipped about the objective of the royal summons. Their High Mightinesses, after granting Buzanval's “urgent request,” were simply told that Henry IV wished to discuss “maritime affairs” with De Moucheron. The

truth came out a year later. News reached the Dutch Estates General on 20 September 1603 that the ships *Ram* and *Ewe*, returning from the East Indies under the command of Joris van Spilberghen, were to be diverted from Veere to some French harbor at De Moucheron's behest. It was the intention of Henry IV to make the *Ram* and *Ewe* the nucleus of a French East Indies fleet. The Dutch Estates General could not let this pass and notified the French monarch that

De Moucheron has a seven-year contract with His Excellency [Maurice of Nassau] and the town of Veere, two years whereof are still remaining, which stipulates that all his ships should depart from and return to the aforesaid town and unload there as well.⁶²

If anything, the *Ram* and *Ewe* belonged to the Dutch creditors of De Moucheron, who had meanwhile gone bankrupt, while the Dutch Admiralty Board and Prince Maurice claimed the fifth and thirtieth shares of all booty captured by the *Ram* and *Ewe*. Henry IV was therefore entreated to redirect the vessels to Veere, should they cast anchor in a French port. Their High Mightinesses took the further precaution of sending express orders to a Dutch navy squadron stationed off Dunkirk to intercept the *Ram* and *Ewe*. Henry IV would indeed be disappointed in his first attempt to establish a French East India Company. Joris van Spilberghen never called on a French

⁶² *Resolutiën der Staten-Generaal, 1579–1609, Twaalfde Deel, 1602–1603*, pp. 88, 299 (minutes of 3 Jun., 1 & 5 Jul. 1602), p. 628 (minutes of 20 Sept. 1603); J.H. Stoppelaar, *Balthasar de Moucheron: een bladzijde uit de Nederlandsche handelsgeschiedenis tijdens den tachtig-jarigen oorlog* (The Hague: Martinus Nijhoff, 1901) pp. 64–68, 79–81, 89–90, 16, 135–136, 141–148, 157–163, 183–186, 191–195, 210–211; S. Barendrecht, *François van Aerssen: Diplomaat aan het Franse Hof, 1598–1613* (Leiden: Leiden University Press, 1965) pp. 88–89.

The Antwerp *émigré* Balthasar de Moucheron was a highly ambitious merchant who sent his fleets all over the world. He traded with Archangel in Russia, on the Wild Coast of South America, in Africa's Bay of Guinea, and, of course, in the East Indies. Yet these risky investments did not always pay off, on the contrary! De Moucheron was already in serious financial difficulties when the regional trading companies of Holland and Zeeland entered into negotiations with each other and the Dutch Estates General to establish the VOC (March 1602). Significantly, De Moucheron did not just demand a VOC directorship, but also insisted on a special pecuniary arrangement. He would not have to pay for his VOC shares in regular installments, but if and when he saw fit. It is highly probable, then, that he decided to accept the invitation of Henry IV in order to flee his creditors. The Dutch Estates General was probably unaware of De Moucheron's failing credit when it granted the French ambassador's "urgent request." In July 1602, the Zeeland Chamber of the VOC received orders from the Dutch Estates General to relieve De Moucheron of his directorship and replace him with Lieven de Moelenaer.

port, but made landfall at Flushing on 24 March 1604. The creditors of De Moucheron immediately took possession of the ships and cargoes, very little whereof remained for the bankrupt and his family.⁶³

Yet the French monarch was not at all discouraged by this debacle and remained as enthusiastic as ever about the prospect of a French voyage to the East Indies. He still intended to obtain sailors and naval stores from the Low Countries. So much is clear from the memorandum that Buzanval submitted to the Dutch Estates General on 1 November 1604. Since the King had found his subjects eager to try their hand at the East Indies trade, he expected Their High Mightinesses to lend these French merchants assistance in acquiring ships, crews and trade goods in the Dutch Republic. Needless to say, the Dutch Estates General rejected the royal request. Their High Mightiness explained to Buzanval that they had promised the VOC directors not to renege on their “*capitulacions et promesses*,” as laid down in the VOC charter. If anything, the directors deserved their unstinted support, being beset by

extreme difficulties, great expenditures, as well as many intrigues and factions, instigated by the enemy against this union [of companies].⁶⁴

The French monarch was insistent, however, and wrote to Prince Maurice about his plans for the establishment of a French East India Company. By this time, Henry IV had given up on De Moucheron. Instead, he placed all his hopes in the Amsterdam merchant Pieter Lijntgens and his son Arnout. It is not difficult to understand Henry IV’s rationale. Since Arnout had been a midshipman aboard the fleet of Cornelis de Houtman, he was a logical choice for the post of senior merchant, or perhaps commander, of the first French voyage to the East Indies. Lijntgens *père* seemed well qualified for the logistical side of things. As the Amsterdam agent of Ten Haeff and Boreel, he had purchased trade goods and naval stores for the Zeeland voyages to the East Indies, while recruiting the crews as well. Yet Henry IV clearly feared that, without political support for his plans

⁶³ Ibidem.

In March 1606, De Moucheron’s wife managed to escape to France, carrying jewels worth over two hundred thousand Dutch guilders (34,000 Flemish pounds).

⁶⁴ IJzerman, ‘Een en ander over Pieter Lijntgens’ p. 146 (minutes of the Dutch Estates General, 1 Nov. 1604).

in the Dutch Republic, Lijntgens might not be able to render similar services for a French East India company.⁶⁵

Prince Maurice was smart enough not to meddle in an affair that so obviously affected the economic interests of both Holland and Zeeland. He forwarded the monarch's letter to the Estates of Holland, which discussed it on 12 January 1605 and resolved that

all appropriate means should be employed to make His Majesty understand what a disadvantage the proposed plan would be for this country and the entire East Indies trade, to the benefit of the enemy.⁶⁶

François van Aerssen, the Dutch agent at the French court, was "seriously" admonished to dissuade Henry IV. The Dutch Estates General became involved as well. Prince Maurice was provided with a preprinted letter on 20 January, undoubtedly formulated by Oldenbarnevelt. Although perfectly willing to oblige His Majesty in everything, the Stadtholder would have to decline on this occasion, as he had learnt from the Dutch Estates General that Philip III was laboring incessantly against the VOC "both inside and outside these provinces," lest he lose his Indies trade altogether. The letter furthermore explained that commercial competition had been the bane of the regional trading companies of Holland and Zeeland, resulting in steep price rises in the East Indies, a history that would repeat itself were the Dutch and French to become rivals in the spice trade. The Dutch Estates General could not permit Lijntgens to recruit Dutch pilots and crews without dissolving the brittle bond that held the VOC together, which would mean certain ruin for "many of the foremost merchants of these provinces." The VOC had no choice but to send warships to the East Indies and pursue an armed trade in the teeth of the "force and might of the King of Spain." It was surely against all right and reason, so Prince Maurice intimated to Henry IV, that a French East India company should enjoy the profits of the spice trade, while the VOC incurred its great costs and ran enormous risks on a regular basis. Although the letter was an eloquent and forceful defense of the VOC, the Dutch Estates General feared that it might not be sufficient to convince Henry IV. They instructed

⁶⁵ IJzerman, 'Een en ander over Pieter Lijntgens' pp. 134–135, 147; Unger, 'De Resolutiën der compagnie op Oost-Indië te Middelburg, 1601–1602' pp. 26, 28, 29, 34–35, 38–43, 47, 51.

⁶⁶ IJzerman, 'Een en ander over Pieter Lijntgens' p. 147 (minutes of the Estates of Holland, 12 Jan. 1605).

François van Aerssen, who happened to be on leave in Holland, to lobby the French privy councilors after his return to Paris.⁶⁷

The Dutch agent met in conference with some of the French privy councilors on 23 February 1605 and quickly realized that they were eager for their countrymen to participate in the East Indies trade. He responded to their overtures by painting a bleak picture of the possible political and economic consequences for the Dutch Republic. Repeating Oldenbarnevelt's arguments, he stated emphatically that the establishment of a French East India company would be the deathblow of the VOC. This must be severely detrimental to the United Provinces and its allies in Europe, as

it would not be in anyone's power either to establish a company as strong as that of the United Provinces, or to contract similar alliances with the Indians, let alone to threaten the Spanish in this domination [of the East Indies].⁶⁸

As Van Aerssen explained, the VOC had been established for several reasons. On the one hand, the merger of the regional trading companies had put an end to rampant price inflation in Asia and endemic rivalry among Dutch factors, which had played into the hands of both the Indians and the Portuguese. On the other hand, the new company had provided employment for scores of Dutch sailors, who had lost their jobs as a result of the Spanish trade embargo of 1598. Without the VOC, these mariners would undoubtedly have engaged in "piracy, or perhaps worse." Yet the Company's mandate went beyond these limited social and economic concerns. The Dutch Estates General had ordered it to

dislodge with a firm hand the domination and authority of the King of Spain, liberate those nations and ally them with the United Provinces, so that they and the Estates General might enjoy the fruits of commerce.⁶⁹

⁶⁷ IJzerman, 'Een en ander over Pieter Lijtgens' pp. 146–147; Jan den Tex, *Oldenbarnevelt* 5 vols. (Haarlem, 1960–1972) Vol. II: *Oorlog, 1588–1609* p. 521; *Resolutiën der Staten-Generaal, Dertiende Deel, 1604–1606* (RGP 101) pp. 332–333.

The Stadtholder's letter of 20 January 1605 repeated many of the arguments that Oldenbarnevelt had used in his reply to Buzanval's memorandum of 1 November 1604.

⁶⁸ M.L. van Deventer, *Gedenkstukken van Johan van Oldenbarnevelt en zijn tijd* 3 vols. (The Hague: Martinus Nijhoff, 1860–1865) Vol. II pp. 26–31 (quotation on p. 31); Barendrecht, *François van Aerssen* pp. 90–91.

⁶⁹ Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* vol. II pp. 27–28.

In consequence, the VOC was determined to put forth two well-manned fleets each year. Its warships had defeated the *armada* of the King of Spain, commanded by André Furtado de Mendoza, on two occasions already, thus “saving the town of Bantam on Java and relieving the Moluccas.” Twelve great ships, “the Estates General adding another two at their own expense,” would sail forth in another month or so, “to attack the rest of the Portuguese throughout the [Malay] Archipelago and fortify themselves along every sea lane.” Such a risky, armed trade should be left to professionals like the VOC, with its forty big ships and its capital of 7.5 million *livres*, not to amateurs like Lijntgens, who had only 300,000 *livres* and four ships at his disposal. There was a distinct possibility, in fact, that Lijntgens had been bribed by the Spanish to deceive His Majesty. Under the pretext of increasing French trade, he sought to destroy *notre grande société*, “which alone is feared by Spain for its unity and power, having already made alliances with all the Indian rulers.” Their High Mightinesses had communicated the King’s wishes to the VOC directors, of course, and considered various options to oblige him. After much soul-searching, they had decided to speak plainly, however, and warn the King that the establishment of a French East India Company must be fatal to the VOC. It would be more honorable for His Majesty, and suit his subjects far better, if he granted them a charter for the West Indies, where *les desseins sont encore en leur entier et faciles*. The New World was the Achilles’ heel of the Spanish Empire, yielding much of the tax revenues that Philip III needed to pursue his wars. The King of Spain could never be attacked more *vivement et sensiblement* than in the regions that provided him with the means “to trouble the whole of Christendom at will.”⁷⁰

⁷⁰ Ibidem pp. 28–31.

Henry IV took up Van Aerssen’s suggestion in the spring of 1606. François Francken, pensionary of Gouda, was invited to Paris to discuss the possibility of French participation in a Dutch West India Company. Yet nothing came of this because of interminable delays in the decision-making process in Holland. It was virtually impossible for Oldenbarnevelt to reconcile the diverging commercial interests of the Holland towns when it came to trade and privateering in the Americas. Indeed, the Dutch West India Company did not come into being until 1621. Henry IV became less enthusiastic about the prospect of joint Franco-Dutch privateering in the West Indies as time went by. When François van Aerssen wrote to Francken on 8 November 1606, he had to admit that the King was no longer interested in the scheme. See Barendrecht, *François van Aerssen* p. 93.

These arguments did not fail to make an impression on the French privy councilors. Van Aerssen informed the Dutch Estates General on 16 March 1605 that he had won over the Duke de Sully, the most powerful Huguenot nobleman at the court of Henry IV, along with Villeroy, Sillery and Jeannin. All four privy councilors were now convinced that Henry IV could not in good conscience disadvantage the VOC by supporting Lijntgens. Yet he urged the Dutch Estates General to remain vigilant for he did not expect Lijntgens to give up so easily.⁷¹

His suspicions were soon born out by new developments in The Hague. On 21 April, the Dutch Estates General turned down a request of Lucas Anthoine Paufy, “French subject,” on behalf of Pieter and Arnout Lijntgens, who still sought to obtain ships for their patron, the King of France. Just eight days later, the VOC directors submitted new objections against the dealings of the Lijntgens family. Both Pieter and Arnout were summoned to The Hague for a meeting with the Dutch Estates General on 5 May. Under heavy pressure from Their High Mightinesses, both merchants agreed on this occasion that they would henceforth behave themselves as good patriots and refrain from undertaking anything that might infringe the VOC charter.⁷²

Meanwhile, Van Aerssen discovered that Henry IV had gone back and forth on his pet project ever since the February conference. According to Sully, the monarch had first heeded the advice of his privy councilors not to establish a French East India Company, but reversed his decision when told that his plans faced no opposition in the United Provinces. Yet Sully was confident that Lijntgens and his associates had overplayed their hands. Henceforth there would be no more talk of Lijntgens, whose petitions could be safely censured or ignored by the Dutch Estates General as far as Sully was concerned. Van Aerssen realized that, at this juncture, Their High Mightinesses should try to strengthen the resolve of the French privy councilors by secretly distributing some presents to Villeroy and Sillery. Oldenbarnevelt did no such thing: instead, he sent Henry IV two more letters on the Lijntgens business, one in the name of

⁷¹ Barendrecht, *François van Aerssen* p. 91.

⁷² *Resolutiën der Staten-Generaal, Dertiende Deel, 1604–1606* (RGP 101) pp. 333, 504; IJzerman, ‘Een en ander over Pieter Lijntgens’ p. 148.

the Dutch Estates General, another in the name of Prince Maurice. It was avarice of the worst kind, gaining him very little. As if nothing had happened, the French monarch wrote to Their High Mightinesses on 30 August and cheerfully asked them to give Lijntgens permission to recruit crews and purchase naval stores “in order to undertake the East Indian navigation.” By this time the French ambassador in The Hague had more than enough of the whole Lijntgens business, however. Buzanval managed to deflect this new royal initiative, albeit temporarily.⁷³

In his letter of 27 September 1605, the French ambassador gave Villeroy an update regarding his efforts in the Lijntgens business. Buzanval first discussed his strained relation with Mathieu Coulhée, an associate of Lijntgens, who had tried to find support in Amsterdam. His lack of success did not surprise Buzanval. The Dutch Estates General would never permit any of its subjects, and certainly no VOC shareholder, to serve a foreign state in contravention of the guarantees given to the Company. After all, the VOC directors were required “not just to engage in trade, but also to make war on the Spanish and Portuguese in the Indies.” Buzanval had therefore proposed to Coulhée to do things differently: ships should be bought and mariners recruited *sans faire bruit* and then sent to French harbors, where Coulhée could decide what to do with them. Buzanval had also warned Coulhée not to overestimate the importance of the Lijntgens family. Arnout, “who made the voyage before,” had recently died *en bewant* (spirits, not water, presumably). As for the father, Buzanval declared he would never put any of his money on the old man. He preferred to deal with certain other *personnages*, who were eager to serve the King, if need be without the approval of the Dutch Estates General. Yet Coulhée had dismissed each and every suggestion and driven the ambassador to despair with his “impertinent replies.” Buzanval had finally asked the uncouth Brabander to leave him alone and pursue the business without any further appeals to His Majesty. It was Henry IV’s letter of 30 August that had changed everything. Buzanval had felt obliged to discuss the matter with Oldenbarnevelt and even to introduce Coulhée to him.⁷⁴

⁷³ Barendrecht, *François van Aerssen* p. 91; *Resolutiën der Staten-Generaal, Dertiende Deel, 1604–1606* (RGP 101) p. 333; Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. II p. 46.

⁷⁴ IJzerman, ‘Een en ander over Pieter Lijntgens’ pp. 149–150.

The interview with Oldenbarnevelt had been a great disappointment for Coulhée, if not for Buzanval. When pressed by the French ambassador, Oldenbarnevelt had frankly admitted that he would sooner lose the VOC than be deprived of His Majesty's friendship and support. Yet he had been confident that the King would receive proper counsel and decide otherwise. Without the VOC, "neither the French, nor any other nations, could put so much as their noses in the Indies," as Dutch arms alone shielded indigenous rulers from their Iberian enemies and ensured freedom of trade. If VOC fleets withdrew from the East Indies, "the Spanish would immediately chastise and subject the aforesaid kings and reassert their authority everywhere, closing the door more firmly than ever to all those who would like to enter." Van Aerssen *père*, clerk of the Dutch Estates General, spoke his mind even more roundly than Oldenbarnevelt, much to the distress of Coulhée. Yet the French ambassador was smart enough to give Villeroy some hope of a favorable outcome and informed him that the Dutch Estates General would soon meet to discuss the King's letter. Personally, Buzanval did not believe that Their High Mightinesses would grant the royal request, "except as a desperate measure and with the greatest reluctance." In the last part of his letter, he elaborated on the Dutch political, economic and religious context and offered some alternatives for Villeroy's unsuccessful policies.⁷⁵

The VOC suffered from a serious crisis of confidence according to Buzanval. "Every day this East India Company is in danger of collapse." It allegedly demanded twelve warships from the Dutch Estates General, just to "keep going in the Indies," which was testimony to the heavy financial burdens born by the Company because of the endemic warfare over there. Buzanval possessed a few VOC shares himself, which had not profited him a single penny. Shareholders were still waiting for the quick returns and generous dividends that had been promised to them in 1602. Instead, whenever money was deposited for the redemption of shares, the VOC directors used it to cover the spiraling costs of the war against the Portuguese, which they were "forced to wage in order to preserve this trade." Not surprisingly, everybody seemed to be jumping ship. The French ambassador alleged that Lijntgens *père* had once owned VOC stock worth fifty thousand *escus*, but sold two thirds of it. The reality was a bit

⁷⁵ *Ibidem* p. 151.

different, of course. Financial difficulties prevented Pieter Lijntgens from redeeming all the VOC shares that he had claimed in August 1602. Buzanval was led to believe, however, that the pangs of conscience had induced Lijntgens to dramatically reduce his stake in the Company. Lijntgens made it appear as if he objected on principle to the hostilities in the East Indies, being a “confirmed Anabaptist.” The credulous ambassador inferred, again on dubious grounds, that Lijntgens’ objections were shared by many Mennonites in Amsterdam, who

should be happy to prepare and establish a company in France that engaged in simple trade, without using force or vengeance against the Spanish and Portuguese because of our peace [with Spain], leaving battles and prizes to those of this country, who are at war [with Spain].

In Buzanval’s view, these Anabaptist merchants were the surest foundation upon which Coulhée could build a French *société*. All this was music to the ears of Villeroy. His correspondent must have realized that. He was careful not to disappoint Villeroy’s expectations of an imminent French entry into the spice trade.⁷⁶

Yet Buzanval did broach some minor points of criticism in his letter to Villeroy. He objected to dealing any further with Pieter Lijntgens, “an old man who had never traded in the Indies.” Instead, he would prefer Francisco Carletti to kick-start a French East India

⁷⁶ Ibidem pp. 151–153.

Buzanval was quite mistaken about the nature of the negotiations between the VOC and the Dutch Estates General in September 1605. It was the Dutch Estates General that begged the VOC to finance a naval expedition to the Iberian Peninsula. On 29 September, Their High Mightinesses deputed Loenen, Oldenbarnevelt and Van der Aa to negotiate with the VOC directors, who decided to contribute *f*125,000 to the cause.

A fleet of twenty-three warships, commanded by Willem de Soete, otherwise known as Haultain, put out to sea in January 1606 and reached Lisbon in April. The fleet blockaded the mouth of the Tagus for nearly two months and took many rich prizes, worth *f*248,000 in total. The expedition yielded a net profit, pocketed by the Dutch Admiralty Board, of some *f*77,000.

Although Buzanval encouraged Coulhée to fan the flames of perceived Mennonite dissatisfaction with the VOC, he did realize that a French East India Company could only operate in the East Indies by virtue of the Dutch presence. As he put it in his letter to Villeroy, “if these Gentlemen [the VOC directors] keep the Indian navigation free and open, we will go there ourselves *malgré eux*; should they let it close just once, we will be excluded” [as well].

See *Resolutiën der Staten-Generaal, Dertiende Deel, 1604–1606* (RGP 101) p. 506 and Enthoven, *Zeeland en de opkomst van de Republiek* pp. 189–190; IJzerman, ‘Een en ander over Pieter Lijntgens’ p. 153.

Company. The Florentine had much better credentials than Lijntgens, “having passed the greater part of his life in the Indies, and always engaged in trade.” Indeed, Carletti was at the King’s disposal and promised to prepare the whole voyage in Holland “without attracting any attention, or throwing these people into a commotion, as did our *soliciteur*” [Coulhée]. He repeated his recommendations in his letter to Villeroy of 19 October 1605. The ambassador held firmly to the idea that Carletti was the right man for the job. His compatriots could profit more from the spice trade than the Hollanders had ever done if only they would take the Florentine on board. Coulhée and Lijntgens, on the other hand, could never hope to succeed, certainly not in the teeth of “[t]he town of Amsterdam, that is to say, the sinew of this country and the mother of the East India Company.”⁷⁷

Meanwhile, the King’s letter of 30 August 1605 had caused much consternation in The Hague. It came as no surprise to François van Aerssen, of course. He wrote to Oldenbarnevelt a week later, arguing that, if only the Dutch Estates General had taken his advice and distributed some presents among the French privy councilors, the Lijntgens business would have been a thing of the past. Yet the French privy councilors bore no malice and had given him the inside scoop right away. Lijntgens was to blame for everything, of course. The King eagerly believed the merchant’s allegation that a deal had been struck between Their High Mightinesses and the Republic of Genua for the establishment of an East India Company over there. As Henry IV knew perfectly well, the Dutch Estates General could not refuse him what it had allegedly granted to the Italian city-state. The French privy councilors advised Their High Mightinesses to stand their ground, however, certainly if they feared for the survival of the VOC.⁷⁸

Predictably, the first reaction of Oldenbarnevelt was to address another long letter to Henry IV, which Van Aerssen placed in the monarch’s hands on 17 November 1605. The letter squarely confronted Henry IV with the difficulties that his initiatives had created in the Dutch Republic. Oldenbarnevelt’s anxiety bordered on the obsessive—the VOC was, after all, his brainchild. He assumed, quite

⁷⁷ IJzerman, ‘Een en ander over Pieter Lijntgens’ pp. 152–154.

⁷⁸ Barendrecht, *François van Aerssen* p. 92.

mistakenly, that Lijntgens had sold *all* his Company stock, along with “many other libertines and Mennonites, his accomplices.” The massive sell-out had allegedly discouraged the “good inhabitants of this country” from redeeming their VOC shares, even though the Company directors needed the cash in order to put forth a new fleet. The Advocate of Holland was equally convinced that “Spain’s secret creatures” had infiltrated Dutch merchant communities and provincial governments, inducing “many of the Company” to complain loudly about the high costs and small profits of VOC privateering. Spanish spies and *provocateurs* spread rumors, so Oldenbarnevelt continued, that a thousand crowns invested in Lijntgens’ company would yield more dividend than four thousand crowns invested in the VOC. Such arguments were supposed to find much support all around, including “several towns, yes, whole provinces, causing great harm and inconvenience.” Oldenbarnevelt predicted that things would only get worse if the King openly countenanced Lijntgens’ plans. In that case, a “rupture” of the VOC could hardly be avoided, leaving shareholders no choice but to sue the Dutch Estates General for damages. A demise of the VOC must entail “the impoverishment of the United Provinces, and a great strengthening and enrichment of the Spanish.” In Oldenbarnevelt’s view, Lijntgens was a traitor pure and simple, who had carried to the enemy “more supplies than twenty other merchants put together.” The Lijntgens business had done nobody any good. It had disadvantaged His Majesty’s service, brought the United Provinces into disrepute and harmed “the interests of many thousands of the best patriots, mostly magistrates of the towns who hold VOC stock.” The Advocate of Holland was therefore confident that Henry IV would reconsider his plans for the establishment of a French East India Company.⁷⁹

These were persuasive arguments, as even Henry IV had to admit to Van Aerssen. Yet Oldenbarnevelt did not rely on epistolary rhetoric alone. He realized that stronger measures were necessary to obstruct the King’s plans. Their High Mightinesses warned Lijntgens that all his possessions would be confiscated the moment he entered the King’s service. In addition, they urged the VOC directors to select three presents for the French privy councilors, to be discretely

⁷⁹ Barendrecht, *François van Aerssen* p. 92; Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. II pp. 49–50.

distributed by Van Aerssen. Two gilded beds-of-state and some “exquisite tapestries” were delivered in Paris before long, which did much to confirm the French privy councilors in their newfound loyalty towards the VOC.⁸⁰

It proved the undoing of Carletti as well as Lijntgens. Henry IV had invited the Florentine merchant to his court in December 1605, undoubtedly at the instigation of Buzanval. When Carletti arrived in Paris, however, he quickly perceived that the Duke de Sully loathed the idea of a French voyage to the East Indies, simply because “Holland had put pressure on the court.” Henry IV tried to revive his pet project in the spring of 1606, only to be rebuffed yet again by Their High Mightinesses. The battle-weary monarch then turned his attention to the Americas and considered the possibility of French participation in a Dutch West India Company. Although nothing came of it, the Dutch Estates General and the VOC directors must have been relieved to hear that he no longer busied himself about creating a dangerous competitor to the VOC. The Lijntgens affair had posed a real threat to the survival of the infant company, something that had not gone unnoticed by Hugo Grotius, the VOC apologist.⁸¹

⁸⁰ Barendrecht, *François van Aerssen* p. 92; IJzerman, ‘Een en ander over Pieter Lijntgens’ p. 154.

⁸¹ Carletti, *Reis om de Wereld, 1594–1606* p. 232; Barendrecht, *François van Aerssen* pp. 92–93.

Although Henry IV of France decided against the establishment of a French East India Company in 1606, there was still a possibility that the VOC would encounter new European competitors in the East Indies before long. An East Indiaman was acquired in Amsterdam that same year by Jan van der Neessen, the agent of the Grand Duke of Tuscany in the Low Countries. The Grand Duke wished to establish direct trading links between Leghorn and the East Indies, and developed his plans in conjunction with his niece, the Queen of France. Francisco Carletti was involved as well. Yet Their High Mightinesses got wind of Van der Neessen’s purchase. They refused to give him permission to hire Dutch crews and acquire provisions and armaments in the United Provinces for the projected voyage from Leghorn to the East Indies. Nothing more was heard of the scheme after that. Compare Marie-Christine Engels, *Merchants, Interlopers, Seamen and Corsairs* p. 31; A.P. McCormick, H.T. van Veen, *Tuscany and the Low Countries: An introduction to the sources and an inventory of four Florentine libraries* (Florence, 1985) pp. 11–12.

3.7 *The Intended Audience of De Jure Praedae: Amsterdam Anabaptists or Dutch Regents?*

Grotius capitalized on the Lijntgens affair in his introduction to *De Jure Praedae*, where he announced his intention to defend VOC privateering against all detractors, including “certain persons insufficiently devoted to the [Dutch] commonwealth.” Traffickers in “malicious falsehoods” had allegedly played upon the “scruples and somewhat superstitious self-restraint” of the Hollanders, embroiling them in heated debates over the question

whether or not, in a just war and with public authorization, they can rightfully despoil an exceedingly cruel enemy who has already violated the rules of international commerce.⁸²

Grotius considered it his task to enlighten the “artless innocence” of his compatriots. He admitted that a merchant’s personal beliefs and commercial practices were nobody’s business as long as these affected “no one save the individual in error.” Things were different, however, when “private loss” resulted in “common peril.” The author of *De Jure Praedae* did not mention Anabaptists and Mennonites as such. Yet he came tantalizingly close when he deplored “the weakness of those persons who betrayed their own possessions to the enemy because some conscientious scruple prevented them from fighting.” Was *De Jure Praedae* written to placate the Mennonite shareholders of the VOC, as Robert Fruin posited in his famous article ‘An Unpublished Work of Hugo Grotius’? Or did the Lijntgens affair play a different role in Grotius’ argument?⁸³

There are reasons to believe that Fruin overstated his case. As I will argue below, the disaffection of Mennonite shareholders, such as it was, never posed an acute threat to the VOC. The subscriptions lists of the Amsterdam and Zeeland Chambers reveal that the VOC counted very few Anabaptist shareholders, none of whom had a major stake in the Company, with the exception of Lijntgens, of course. Yet Lijntgens was not the principled Mennonite that Buzanval took him to be. Financial difficulties forced him to substantially reduce his stake in the Amsterdam Chamber in April 1605. This was divestment of a kind, but hardly peculiar to Anabaptists. The alleged

⁸² Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 1.

⁸³ *Ibidem* pp. 1, 3; Fruin, ‘An Unpublished Work of Hugo Grotius’ pp. 32–36.

Mennonite *crise de conscience* only existed in the minds of Oldenbarnevelt and Buzanval, who had every incentive to use this argument in their dealings with the French court. If anything, it was the capture of the *St. Jago* that inspired Grotius' veiled references to an Anabaptist 'problem' in *De Jure Praedae*. He must have been aware that Michiel Michielsen, a Mennonite investor in the United Zeeland Company, had declined his share of the booty as a matter of principle. Once again, Grotius was fighting a rearguard action against all those who challenged the verdict of the Middelburg Admiralty Court, which included the Portuguese New Christians and Francisco Carletti as well as Michiel Michielsen. Yet it was not Grotius' intention to show them the errors of their ways. Grounded in the Ciceronian criteria for moral action, his defense of VOC privateering was calculated to appeal to the Dutch Estates General and the provincial Estates. If the Lijntgens affair taught Grotius anything, it was that the VOC needed the help and support of the Dutch Estates General in order to continue the war in the East Indies and avoid a shareholder revolt as a result of its failure to pay any dividends. This much is clear from the letters that Grotius drafted for the VOC directors in the spring of 1606. The historical context of *De Jure Praedae* was far more ambiguous and complex than Fruin assumed in 'An Unpublished Work of Hugo Grotius'.

It is instructive to take a closer look at the manuscript's introduction. Grotius explicitly stated that, in writing *De Jure Praedae*, he sought to answer three possible critiques of VOC privateering. Significantly, each of these critiques went far beyond the principled pacifism of the Anabaptists, both in a legal and philosophical sense. It is worth citing Grotius in full:

Some of these critics, guided in a sense by punctilious motives, hesitate to approve of the prize, apparently regarding it as something wrongfully acquired and illegitimate. Others, though they entertain no doubt from the standpoint of legitimacy, seem fearful of bringing some stain upon their reputations by such an act of approval. Again, there may be individuals who have no misgivings regarding the justice of the cause in question and who do not believe that their good name can be impaired thereby, but who nevertheless imagine that this very proposition which at the moment appears to be beneficial and profitable, may eventually result in some still latent loss and harm.⁸⁴

⁸⁴ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 5.

In other words, Grotius sought to prove that VOC privateering was just, honorable and beneficial from a moral as well legal perspective. The passage testifies to his proficiency in the *studia humanitatis*, particularly his indebtedness to Cicero's *De Officiis*, and serves to structure his argument in *De Jure Praedae*. The three kinds of criticism distinguished here correspond perfectly with the chapter divisions in the second half of the manuscript. Grotius showed in chapters twelve and thirteen that the VOC was engaged in a just war in the East Indies, both in its capacity as a private company and by virtue of the delegated authority of the Dutch Estates General. He argued for the honorableness and profitability of privateering in chapters fourteen and fifteen. The capture of a Portuguese carrack redounded to the honor and reputation of the Dutch Republic and benefited the infant state in other ways as well, primarily by diminishing the enemy's capacity to wage war, while increasing the revenues of the hard-pressed Admiralty Board. Needless to say, Grotius' explicit endorsement of the Ciceronian criteria for moral action would not have swayed the average Anabaptist, many of whom would not have been able to read the Latin manuscript anyway. His sophisticated blending of classical rhetoric and philosophy was calculated to appeal to the political elite of the United Provinces. The VOC directors realized that they needed the support of Dutch Estates General and Estates of Holland in order to extricate themselves from their various difficulties. Grotius could only say amen to that in *De Jure Praedae*.⁸⁵

There is another reason why it seems highly improbable that Grotius addressed a Mennonite audience in *De Jure Praedae*. New archival evidence, unknown to Robert Fruin, suggests that there were very few Anabaptists among the VOC shareholders. When the Amsterdam Chamber of the VOC closed its subscription lists (*participatieboeken*) on 31 August 1602, it counted 1,143 investors, just six of whom were Mennonites. Only Pieter Lijntgens and Simon Willemszoon Nooms could call themselves major shareholders, however. They had invested 60,000 guilders and 10,200 guilders respectively. By contrast, the heirs of Michiel Michielsens had bought just two thousand guilders worth of VOC stock, a little less than Oldenbarnevelt himself. The other Mennonite shareholders held significantly smaller

⁸⁵ *Ibidem* pp. 216–366.

stakes: Jan Pieterssoon Vrelandt invested six hundred guilders, for example. This was no match for the stockholdings of the directors of the Amsterdam Chamber, of course. Each of them was required to put his name down for at least twelve thousand guilders. The majority invested much more than that. Indeed, the Amsterdam Chamber raised nearly half its capital from investors whose subscriptions amounted to ten thousand guilders or more. Only Lijntgens and Nooms belonged to this select group of shareholders. Financially speaking, the VOC had little to fear from Anabaptist disaffection within its ranks. It could easily have survived total Mennonite divestment, although this did not happen, in fact.⁸⁶

Anabaptist objections to privateering were primarily an issue for the United Zeeland Company, not the VOC. The Dutch Estates General learnt in August 1602, for example, that several shareholders of the United Zeeland Company entertained grave doubts about the legality of the capture of the *St. Jago*. Strict Mennonite beliefs motivated at least one of them, Michiel Michelsen of Amsterdam. In his last will and testament, Michiel Michielsen even forbade his heirs to collect any part of the booty, on pain of forfeiting their entire inheritance. The Dutch Estates General briefly considered the possibility of transferring the claims of these conscience-stricken merchants to the cash-strapped Admiralty Board. Their High Mightinesses realized that they could offer little in return, however. The merchants would have to content themselves with “the fame and honor . . . of having benefited and obliged their own country.” Yet nothing came of the scheme, probably because it failed to placate pacifist investors like the Michielsen family. Did this mean that the VOC’s privateering campaign was at risk from a shareholder revolt in Zeeland? The answer must be negative. When the United Zeeland Company ceased to exist in March 1602, Mennonite investors did not transfer their money to the VOC. Apart from Pieter Lijntgens, there is not a single Anabaptist to be found in the subscription lists of its Zeeland Chamber. The heirs of Michiel Michielsen signed up for the Amsterdam Chamber instead. Yet the Anabaptists remained a tiny minority among the shareholders of

⁸⁶ Van Dillen, *Het oudste aandeelhoudersregister van de Kamer Amsterdam der Oost-Indische Compagnie* pp. 36, 40–41, 49, 61, 72, 98–102; Mary Sprunger, ‘Entrepreneurs and Ethics: Mennonite Merchants in Seventeenth-Century Amsterdam’ pp. 213, 216–217.

the Amsterdam Chamber, whose humble investments could never decide the fate of the VOC.⁸⁷

The Mennonite ‘problem’ identified in *De Jure Praedae* was, in fact, entirely derived from Grotius’ understanding of the case of the *St. Jago*. As noted earlier, Grotius had excellent connections in Zeeland, which kept him abreast of the endless political intrigues and legal wrangling that followed the carrack’s capture. In chapter fifteen of *De Jure Praedae*, he took issue with the overconscientious shareholders of the United Zeeland Company:

[n]ow, granting that it is not permissible to restore captured possessions to the enemy, let us consider whether or not it is in any sense beneficial to keep those possessions apart from the rest of one’s property. If this policy is adopted in order to prevent other goods from being contaminated by the admixture of spoils, such superstitious scruples certainly call for ridicule rather than for confutation . . .⁸⁸

Mockery and derision were Grotius’ weapons of choice in his fight against the “superstitious scruples” of some of the investors in the United Zeeland Company. They had declined their share of the *St. Jago* for the wrong reasons. Booty as such could not morally stain one’s property. Grotius pointed out that

[p]recisely as goods justly obtained (a description which includes spoils taken in a just war) serve as a righteous means of increasing and adorning that whole, so the latter cannot possibly escape contamination from goods unrighteously acquired even when they are segregated and removed to a great distance.⁸⁹

Michiel Michielsen’s adamant refusal to touch the spoils of the *St. Jago* would have been justified if, and only if, the Middelburg Admiralty Court had *failed* to declare the carrack good prize, which was patently not the case. From Grotius’ point of view, the Anabaptist objections to privateering were a clear challenge to the verdict of the Middelburg Admiralty Court and fell in the same category as the equally misguided claims of Francisco Carletti and the Portuguese New Christians.

⁸⁷ *Resolutiën der Staten-Generaal, Twaalfde Deel, 1602–1603* (RGP 92) p. 300; Unger, *De Oudste Reizen van de Zeeuwen naar Oost-Indië* pp. 167–168 (minutes of the Zeeland College of the Admiralty Board, 8 and 17 July 1602); Unger, ‘Het inschrijvingsregister van de kamer Zeeland der Verenigde Oost-Indische Compagnie’ *Economisch-Historisch Jaarboek* 24 (1950) pp. 1–31; Mary Sprunger, ‘Entrepreneurs and Ethics: Mennonite Merchants in Seventeenth-Century Amsterdam’ pp. 213, 216–217.

⁸⁸ Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 362.

⁸⁹ *Ibidem* pp. 362–363.

Once again, Grotius fought a rearguard action against all those who had opposed the confiscation of the *St. Jago*. Yet it is doubtful whether his arguments were applicable to the case of the *Santa Catarina*. Mennonite dissatisfaction with VOC privateering could never have resulted in any kind of massive sell-off of Company stock, considering the paucity of Anabaptist investment. As for Pieter Lijntgens, it was not the pangs of conscience, but severe financial difficulties, that forced him to repudiate one-third of his VOC shares in April 1605.

The Anabaptist *crise de conscience* was limited to the case of the *St. Jago* and must be distinguished from the Lijntgens affair. In theory, Pieter Lijntgens had become the Company's biggest shareholder when the subscription for VOC stock closed at midnight on 31 August 1602. The subscription lists (*participatieboeken*) show that Lijntgens put his name down for *f*45,000 in the Zeeland Chamber of the VOC and for *f*60,000 in the Amsterdam Chamber. Lijntgens had been a leading member of the Amsterdam business community for two decades at least. Already in 1585, the *émigrée* merchant from Antwerp had paid the highest level of income tax in Amsterdam. He had employed his own factors in Danzig, Lisbon and Seville, and he freighted at least thirty-two merchantmen in the period 1594–1598, shipping salt from France, Portugal and Spain to Eastern Europe and Baltic grain to the Iberian Peninsula. In addition, he had assisted Ten Haeff and Boreel in organizing the early Zeeland voyages to the East Indies and had routinely bought cannons, powder and shot on their behalf, his alleged Mennonite convictions notwithstanding. These various activities did not seem to have done him any harm financially. Yet appearances were deceptive. Lijntgens had something of a gambler about him and took enormous risks as a businessman. His luck had clearly run out when the time came to redeem his VOC shares. It is clear from the shareholder accounts of the Amsterdam Chamber (*Grootboek der Actiën*) that Lijntgens waited until August and October 1603 to deposit the first installment of 15,000 Dutch guilders. At the instigation of the VOC directors, his stake in the Amsterdam Chamber was forcibly reduced from a nominal *f*60,000 to a nominal *f*30,000 in April 1605. Yet his shareholder account was just *f*12,923 in credit at that point, a situation that remained unchanged until his death in 1616. Judging by the available evidence, the Dutch historian J.W. IJzerman was correct to conclude

that Lijntgens had experienced “great financial difficulties” and embarked on his French adventure in order to elude angry creditors.⁹⁰

The Antwerp *émigrée* posed a danger to the VOC not so much due to his insolvency, but because of the very real possibility that, under his aegis, a French East India Company would attract substantial amounts of Dutch capital. There was widespread disenchantment among the VOC’s ordinary investors, who resented the low return on capital. They did not share in the booty of the *Jago* and *St. Catarina*, for example. These prizes belonged, strictly speaking, to the financiers of the defunct regional trading companies, who had meanwhile become VOC directors. Although charged by these selfsame directors for the war in the East Indies, the Company’s ordinary investors did not reap the rewards of privateering. The VOC paid no dividends until April 1610. The proceeds from trade and privateering were reinvested in the Company in order to pay

⁹⁰ Unger, ‘Het inschrijvingsregister van de kamer Zeeland der Verenigde Oost-Indische Compagnie’ p. 17; Van Dillen, *Het oudste aandeelhoudersregister van de Kamer Amsterdam der Oost-Indische Compagnie* pp. 36, 40–41; Oscar Gelderblom, *Zuid-Nederlandse kooplieden en de opkomst van de Amsterdamse stapelmarkt, 1578–1630* (Hilversum: Verloren, 2000) pp. 108, 145, 153; Unger, ‘De Resolutiën der compagnie op Oost-Indië te Middelburg, 1601–1602’ pp. 26, 28, 29, 34–35, 38–43, 47, 51; Dutch National Archives, VOC 7242 f. 82v; *Resolutiën der Staten-Generaal, Dertiende Deel, 1604–1606* (RGP 101) pp. 333 (footnote 1), 504; IJzerman, ‘Een en ander over Pieter Lijntgens’ pp. 138–139.

Recent research has shown that Mennonite merchants in Amsterdam did not shy away from trading ventures in the Mediterranean or West Indies, which involved the use of heavily armed ships. However, the church board of the Waterlander community in Amsterdam did pass a resolution in 1619 that obliged its members to liquidate any stake they might have in ships equipped with ‘cannon and weapons of war’. It is unclear to what extent individual Mennonites followed these guidelines.

According to Mary Sprunger, there are just five known cases of Anabaptists who left the VOC, including Lijntgens. All cases date from the Company’s early years, which suggest that “economic motives may also have come into play.” She notes, quite rightly, that the military and naval offensive in the East Indies was prohibitively expensive and cut into the VOC’s initial profits. It is quite possible that “these Mennonites were looking for a convincing excuse to bail out.” Lijntgens believed that a French East India Company could save him from bankruptcy. The Mennonite merchant Syvert Pietersz Sem may well have sold his VOC shares in 1608 in order to finance a trading company for the White Sea. He failed to get a charter from the Dutch Estates General, however. Sprunger observes that there were numerous other Mennonites, “at least among the Flemish and the Waterlanders,” who held VOC shares, “but nothing is known of their withdrawal.”

Bert Westera shows that some Mennonite merchants in Amsterdam had large stakes in the European arms trade. In the eighteenth century, the firm of Quirijn Brants & Son was the sole Amsterdam agent of three generations of De Geers, the

for its military and naval offensive in the East Indies. Only the VOC directors seemed to profit from overseas warfare. While they earned no wages as such, a generous reimbursement scheme allowed them to pocket one percent of the total costs of every VOC fleet. In addition, they designated themselves the Company's sole suppliers of various goods and services. All of this must have been extremely vexing for those outside the charmed circles of the VOC directors. Yet they had no say in the Company's policy-making whatsoever and could only vote with their feet in order to express their displeasure.⁹¹

The disgruntlement of ordinary investors manifested itself in various ways. The redemption of VOC stock almost came to a halt in the early months of 1605, for example. It was imperative for the VOC directors to collect these deferred payments, lest they fail to set forth a new fleet. (Cornelis Matelief Jr. sailed in May 1605, in fact.) Desperate for funds, the VOC directors appealed directly to

Lords of Finspong, who produced high-quality iron and cannon in Sweden. The VOC was one of the biggest customers of the firm of Quirijn Brants & Son. According to Michael Driedger, the Amsterdam Anabaptists were by no means unique in their relaxed attitudes towards armed trade and trade in guns. The production of weapon-quality gunpowder was the livelihood of generations of Mennonites in seventeenth century Altona in Germany, for example. Many Anabaptist traders in Altona owned or chartered armed merchantmen as well, especially in times of war. This did not disqualify them as 'true believers' in the eyes of the Mennonite congregation of Altona.

Compare Mary Sprunger, 'Waterlanders and the Dutch Golden Age: A Case Study on Mennonite Involvement in Seventeenth-Century Dutch Trade and Industry as One of the Earliest Examples of Socioeconomic Assimilation', and Bert Westera, 'Mennonites and War in the Seventeenth and Eighteenth Centuries: The Brants Family between Pacifism and Trade in Guns' in: *From Martyr to Muppy (Mennonite Urban Professionals): A Historical Introduction to Cultural Assimilation Processes of a Religious Minority in the Netherlands: The Mennonites* ed. Alastair Hamilton, Sjouke Voolstra and Piet Visser (Amsterdam: Amsterdam UP, 1994) pp. 133–155; Michael D. Driedger, *Obedient Heretics: Mennonite Identities in Lutheran Hamburg and Altona during the Confessional Age* St. Andrews Studies in Reformation History (Aldershot: Ashgate, 2002) pp. 107–128.

⁹¹ Den Haan, *Moede negotie en Grote Vaart* pp. 114–116, 120–122, 125–127; Van Dillen, *Het oudste aandeelhoudersregister van de Kamer Amsterdam der Oost-Indische Compagnie* pp. 98–102; Mary Sprunger, 'Entrepreneurs and Ethics: Mennonite Merchants in Seventeenth-Century Amsterdam' pp. 216–217; Ernst van Veen, *Decay or Defeat? An Inquiry into the Portuguese Decline in Asia, 1580–1645* (Leiden: CNWS Publications, 2000) pp. 159, 163–169.

The VOC lawyer Pieter van Dam discussed the financial rewards of privateering in his famous *Beschryvinge van de Oostindische Compagnie*, written in the third quarter of the seventeenth century. He gave some fairly precise figures for the federal taxes on booty paid by the regional trading companies of Holland and Zeeland.

the Dutch Estates General, which discussed their petition on 26 February 1605 and “seriously” admonished them to

continue manfully in their resolution to maintain and assure the East Indian trade, even in the teeth of violent provocations by the King of Spain and his subjects, and to do the aforesaid King and his subjects all possible harm.⁹²

Their High Mightinesses realized that this could not be done without their material support and ordered the Dutch Admiralty Board to give two fully rigged ships in loan to the Company. In addition, Their High Mightinesses decided to back the efforts of the VOC directors to bring recalcitrant shareholders to heel. The latter received permission to put up notices “in all the towns and at the usual places,” summoning shareholders to deposit their money by 30 April 1605. Investors were left in no doubt about the detrimental consequences of non-payment. The VOC directors reserved the right to sell stock by public auction “to the benefit or detriment of the defaulter.” In other words, they would take whatever they could get for his or her shares. Pieter Lijntgens was their biggest victim, of course. As noted earlier, his stake in the Company was forcibly reduced to *f*30,000. Yet many ordinary investors disappeared from the scene as well, either because they failed to redeem their shares or quickly sold them on the open market.⁹³

The shareholder accounts of the Amsterdam Chamber reveal that the VOC directors quickly consolidated their holdings at the expense of ordinary investors, particularly in the first decade of the Company’s existence. A typical example was the investment portfolio of VOC director Jacques de Velaer, an Antwerp *émigrée* who had settled in Amsterdam in the 1590s. Active in the Guinea trade, the merchant

Since the Dutch Admiralty Board claimed 20% of the booty, the total value of each prize must have been at least five times the sums listed below:

<i>Santa Catarina</i>	<i>f</i> 450,000
Prizes captured by Admirals Van Warwijk and Van der Hagen	<i>f</i> 132,961
Japan carrack, taken by the <i>Erasmus</i> and <i>Nassau</i>	<i>f</i> 120,000
<i>St. Antonio</i> , seized in Patani road by Van Warwijk	<i>f</i> 317,500
<i>St. Jago</i>	<i>f</i> 15,313

Source: Van Dam, *Beschryvinge van de Oostindische Compagnie* ed. Stapel and Van Boetzelaer van Asperen en Dubbeldam Vol. 2 (RGP 68) p. 495.

⁹² *Resolutiën der Staten-Generaal, Dertiende Deel, 1604–1606* (RGP 101) p. 501.

⁹³ *Ibidem*, pp. 333, 501–504; IJzerman, ‘Een en ander over Pieter Lijntgens’ p. 148.

first became involved in the early Dutch voyages to the East Indies as a co-founder of the New Brabant Company. He put his name down for nearly *f*57,000 worth of VOC shares in August 1602, which made him the third biggest investor in the Amsterdam Chamber. Verlaer acquired more VOC stock on the open market: he bought shares worth *f*24,000 from Nicolas Malapert in November 1603 and paid *f*9,000 for the shares of Adriaen Martsenzoon van Koetenburgh in January 1605, for example. The total value of his shareholdings had increased to *f*94,600 in August 1605. It is not clear whether Verlaer underwrote the first VOC loan, floated in 1607. Yet he was certainly an underwriter, investing the colossal sum of *f*91,000, when the Company took out a marine policy in 1613—a measure of last resort to maintain its cash flow. Like most VOC directors, Verlaer became increasingly committed to the Company because he had a real stake in its survival. The fate of ordinary investors was very different. Rising share prices, combined with the Company's failure to pay any dividends until April 1610, were powerful incentives for them to dispense with VOC stock altogether.⁹⁴

Although the VOC directors were happy to consolidate their own shareholdings, they also realized that it would be desirable to redress some, if not all, of the grievances of ordinary investors. There was a limit to what they could do for the Company just by themselves. Its charter stipulated, moreover, that the first joint stock would be dissolved in 1612. The VOC directors would have to publish a statement of accounts at that point and put the entire capital of the Company at the disposal of the shareholders. Lest there be no takers for the second joint stock except themselves, the VOC directors needed to find some way to please disgruntled investors, preferably by paying dividends, of course, which required an increase in the Company's net profits, however. This was not an easy task: the VOC's military expenditures of *f*420,000 per annum made it very difficult to achieve a net surplus. Yet the VOC directors did take

⁹⁴ Den Haan, *Moedernegotie en Grote Vaart* pp. 104–105, 108–109, 114, 120, 122; Van Dillen, *Het oudste aandeelhoudersregister van de Kamer Amsterdam der Oost-Indische Compagnie* pp. 80–81, 83–84, 107–108, 110, 227, and plates V and VI.

The establishment of the Amsterdam stock exchange was a direct result of the brisk trade in VOC shares, which already traded at 115% above the rate of issue in the autumn of 1602. Stock prices declined somewhat in the years 1603–1604, but then rose to 130% in 1605 and even 200% in 1606. Since the VOC paid no dividends until April 1610, ordinary investors who wanted a quick return on their capital were better off selling their shares.

some measures to lower the costs of warfare. Through the good offices of the Dutch Estates General, they regularly received contributions in kind—warships, guns and ammunition—from the Dutch Admiralty Board, for example. Since this was still not sufficient to balance the books, the VOC directors had to devise another cost-cutting scheme in March 1606. With Grotius' help, they tried to persuade the Dutch Estates General to relinquish its fifth share of all VOC booty and put the money in an *aerarium militare*, a special fund for the war against the *Estado da India*.⁹⁵

3.8 *No Trade Without War: Two VOC Petitions Drafted* by Hugo Grotius

In the spring of 1606, while still toiling at *De Jure Praedae*, Grotius obliged the VOC directors with two draft petitions that entreated the Dutch Estates General to take responsibility for the war in the East Indies and relieve the Company of some of its financial burdens. The first petition was submitted to Their High Mightinesses in March 1606. It proposed the establishment of an *aerarium militare*, a special fund that would derive its income from the federal tax on VOC booty and spend it exclusively on the armed conflict in Asia. When the Dutch Estates General proved unresponsive, Grotius drafted a reminder letter and requested a reply before the half-yearly meeting of the Gentlemen XVII, the Company's highest governing body, which would convene in Amsterdam on 20 May 1606. Grotius intimated that the VOC directors were faced with the difficult decision whether or not to send extra reinforcements to the East Indies. The

⁹⁵ Den Haan, *Moedernegotie en Grote Vaart* pp. 114–115, 119–120, 122; Dutch National Archives, *Archieven der Admiraliteitscolleges* 1350 (minutes of the Amsterdam College of the Admiralty Board, 30 Dec. 1604) and VOC 7242 (minutes of the Zeeland Chamber, 27 April 1606 and 13 Nov. 1608); *Resolutiën der Staten-Generaal, Dertiende Deel, 1604–1606* (RGP 101) pp. 500–501.

The VOC directors realized that shareholders might well refuse to reinvest their money in the Company after a dissolution of the first joint stock. The Gentlemen XVII (*Heren XVII*) first discussed this problem in their meeting of 20 May 1606 in Amsterdam. They proposed that, because of the “great costs and dangers” facing the Company, the first joint stock should automatically roll over into the second joint stock. It would be unfair, so the argument went, to make the shareholders of the first joint stock responsible for financing the Company's capital outlay, and leave the fruits thereof to the shareholders of the second joint stock. Similar sentiments

outcome of their deliberations would be determined to a large extent by the material support that they could expect from the Dutch Estates General. Unfortunately, it is unclear whether Their High Mightinesses actually discussed the two VOC petitions. If they did, the precarious finances of the Dutch Admiralty Board must have deterred them from accepting Grotius' proposal for an *aerarium militare*. The federal taxes levied on VOC booty were an extremely important source of revenue for the Dutch Admiralty Board. Grotius and the VOC directors had to be content with one meager concession: Their High Mightinesses gave permission for booty to be auctioned off in the East Indies, instead of the United Provinces. The Dutch Admiralty Board could still levy taxes on these prize goods. Yet it would have to take account of their lower value in Asia. This was not exactly the compromise that Grotius and the VOC directors outlined in their reminder letter. Yet it was not for lack of trying that they failed to convince Their High Mightinesses.⁹⁶

Both the original petition and the reminder letter suggest that Grotius cooperated closely with the VOC directors when he lobbied the Dutch Estates General for political favors. There were striking similarities between these two petitions and *De Jure Praedae* in Grotius' defense of VOC privateering. Grotius realized that, as long as the Portuguese sought to obstruct freedom of trade and navigation, there could be no commerce without war in the East Indies. The establishment of a Dutch trading empire was critically dependent on the success of the Company's naval and military offensive, which had been launched at the instigation of Their High Mightinesses in November 1603. The VOC was effectively fighting their worldwide

were voiced at the meetings of the Gentlemen XVII of 28 August 1606 and 10 October 1607. The Dutch Estates General adopted their proposal in 1612. Although VOC stock continued to be bought and sold on the open market, shareholders were prevented from withdrawing the original investments, or even from inspecting the Company's account books until 1621. Compare Dutch National Archives, VOC 99 f. 193, 205–206, 255 (minutes of the meetings of the Gentlment XVII) and *Resolutiën der Staten-Generaal: Nieuwe Reeks, 1610–1679* ed. A. Th. van Deursen (The Hague: Martinus Nijhoff, 1971) *Eerste Deel, 1610–1612* (RGP 135) pp. 359, 604, 703.

⁹⁶ Dutch National Archives, Grotius Papers, Supplement I, fol. 374–379 (scribal copy of the original petition, submitted to the Dutch Estates General in March 1606), fol. 333–334 and 367 (draft of the reminder letter in Grotius' hand), fol. 342–343 (scribal copy of the reminder letter, without marginalia) and fol. 369–373 (scribal copy of the reminder letter, corrected and revised by Grotius); W.E. Smelt, "Beschrijving eener Verzameling Papieren afkomstig van Hugo de Groot, *Inventarissen van Rijks- en Andere Archieven* I (1928) pp. 73–105, particularly pp. 81 and 83.

war against Philip III of Spain and Portugal—and did so at their command. As a consequence, Their High Mightinesses were under a moral obligation to lend all possible assistance to the Company. Grotius never ceased to remind them of that, whether in the form of VOC petitions or *De Jure Praedae*.⁹⁷

The Grotius Papers at the Dutch National Archives contains one scribal copy of the original proposal for an *aerarium militare* and several drafts of the reminder letter. The original proposal has only survived in a scribal copy. It does feature marginalia in Grotius' hand, however, and encloses a separate sheet with his reading notes. Although his authorship of the original proposal is not entirely certain, there are good reasons to believe that he did write it. Few VOC lobbyists could have been so erudite as to propose the creation of a special fund for war in the East Indies and name it after the pension fund for Roman veterans established by Emperor Augustus in the first century AD. It would also have been more convenient for the VOC directors to give one person the responsibility for writing the original proposal and reminder letter. Grotius' commitment to the Company cannot be in doubt. He put a lot of work into drafting the reminder letter, for example. There is one draft extant in his handwriting, along with two fair copies in a scribal hand, one of which he corrected and revised extensively.⁹⁸

Predictably, Grotius made his case for an *aerarium militare* by reminding Their High Mightinesses of a) their decisive role in the formulations of VOC policy and b) the very real benefits of armed trade in the East Indies, enjoyed both by the United Provinces and its inhabitants. Grotius noted right at the start of his eleven-page proposal that they had admonished the VOC directors several times to do all possible harm to the Spanish and Portuguese, “so that the aforesaid petitioners might not just maintain their trade with honor, but also increase it.” It was for this reason, so Grotius continued,

⁹⁷ The sharp rise in silver remittances from New Spain to the Philippines testifies to the success of the VOC's privateering campaign. Iberian defense spending in Asia increased dramatically in the first decade of the seventeenth century. Compare Sluiter, *The Gold and Silver of Spanish America, c. 1572–1648* pp. 137–145 and Table E–1.

⁹⁸ Dutch National Archives, Grotius Papers, Supplement I, fol. 333–334, 367, 369–379; *Der Kleine Pauly* ed. Konrate Zeigler and Walther Sontheimer 6 vols. (Stuttgart, 1964) vol. I p. 99 (*'aerarium militare'* entry)

that they had brought about the merger of the regional trading companies of Holland and Zeeland and authorized the VOC to carry out preemptive attacks against Iberian forces in the East Indies. Their high expectations had not been disappointed: the Company's armed trade was a great boon to the common cause already. The VOC's commercial activities were essential for the employment of Dutch commoners, for example. Its privateering campaign had successfully deprived the King of Spain and Portugal from his Indian revenues, "amounting to one half of all the means employed for the ruin and destruction of these provinces." There was another advantage in severing these sinews of war: it finally put the Dutch Estates General in a position to take the offensive in Europe and attack the enemy on his own turf. Grotius might have added that the expedition of Admiral Haultain proved as much. The Dutch navy was on its way to Lisbon in order to blockade the Portuguese port for the entire summer, thanks in no small part to a subsidy of f125,000 from the VOC directors. Yet Grotius chose to highlight the Company's own naval victories instead. The VOC directors had given secret orders to Steven van der Haghen, first shown to "some deputies of Your High Mightinesses, whom, we trust, were greatly satisfied with it," to seek out and attack the Iberian enemy. As a result, Van der Haghen had made himself "master of the sea" in the waters around Mozambique and Goa, thus showing the Indians that

the courage of the Netherlanders is such that they do not just protect themselves and their allies against Spanish violence, but even dare to attack the Portuguese in their own strongholds.

These brilliant victories came at a high price, however. The excessive costs of warfare would soon make it impossible for the VOC directors to continue the offensive in the East Indies, unless, of course, the Dutch Estates General should offer them generous and tangible support.⁹⁹

⁹⁹ Dutch National Archives, Grotius Papers, Supplement I, f. 374r–375v (quotations); *Resolutiën der Staten-Generaal, Dertiende Deel, 1604–1606* (RGP 101) p. 501; Enthoven, *Zeeland en de opkomst van de Republiek* p. 189; *De Opkomst van het Nederlandsch Gezag in Oost-Indië (1595–1610)* Vol. 3 pp. 30–35, 146–147, 164–189, 205; P.A. Tiele, 'Documenten voor de geschiedenis der Netherlanders in het Oosten', *Bijdragen en Mededelingen van het Historisch Genootschap* 6 (Utrecht, 1883) pp. 223–376, particularly pp. 258–264 (secret instructions for Steven van der Haghen); M. de Jong, 'Kooplieden en hun belangen in de overheidsfinanciën van de Republiek: bilaterale

Grotius used the second half of the petition to elaborate on the Company's precarious financial situation. The outlay of the fleets of Steven van der Haghen (1603), Cornelis Matelief Jr. (1605) and Paulus van Caerden (1606) had consumed nearly all of the VOC's original capital of six million guilders. The VOC directors were left with *f*500,000, barely enough to launch two ships and a yacht the following year. If they had stuck to "ordinary trade," they would have had no need for large fleets of twelve, eleven and eight warships apiece. It had been prohibitively expensive to hire extra crew and purchase large amounts of ammunition and victuals, for example. According to Grotius' calculations, the funds set aside for this particular purpose might easily have sufficed for a voyage of ten merchantmen. Unfortunately, Their High Mightinesses did not seem to appreciate the Company's predicament. Instead of showing it "extraordinary favor," they had been "very precise" in claiming "that which is conquered by the petitioners at no cost to the country." Indeed, the Dutch Admiralty Board had lent the Company just one paltry vessel, without any tackle, sails or guns, instead of the two fully rigged and armed warships promised by Their High Mightinesses on 26 February 1605. This was hardly reassuring for VOC shareholders, who had assented to the military and naval offensive in the

subsidies en leningen als 'case-study', 1615–1630' in: *Ondememers en Bestuurders: Economie en Politiek in de Noordelijke Nederlanden in de Late Middeleeuwen en Vroegmoderne Tijd* ed. Lesger and Noordegraaf pp. 277–297.

Van der Haghen wrote to the VOC directors from Bantam in January 1605 and informed them of his naval victories. His fleet had blockaded Mozambique road in the summer of 1604, capturing at least one carrack anchored there. The twelve VOC ships had appeared off Goa on 26 September 1604, and exchanged fire with the town's defenders, to little avail. Yet they had easily fended off twenty Portuguese frigates when the counterattack came one month later. An offensive and defensive alliance with the Samorin of Calicut, concluded in November 1604, had been the crown on Van der Haghen's work to undermine the *Estado da India* in the western half of the Indian Ocean.

Interestingly, it is this part of Van der Haghen's letter that survives among the Grotius Papers at the Dutch National Archives. The fragment suggests that the Samorin of Calicut was extremely well disposed towards the Hollanders. The ruler allegedly held sixty or seventy ships in readiness for a joint attack on the Portuguese port of Cochin, and begged Van der Haghen to build a fortress in his own country. None of this is mentioned, however, in Grotius' proposal for the establishment of an *aerarium militare*.

Compare Dutch National Archives, Grotius Papers, Supplement I, ff. 300r–v (Steven van der Haghen to the VOC directors, 14 January 1605, scribal copy); H. Terpstra, *De Opkomst der Westerkwartieren van de Oost-Indische Compagnie* (The Hague: Martinus Nijhoff, 1918) pp. 19–20.

East Indies “in the understanding that Your High Mightinesses would support the Company.” The investors realized that Philip III of Spain and Portugal would spare no trouble or expense in order to defend his colonial empire. Unless the Dutch Estates General lived up to its promises, they might well decide to “ earmark their capital for present and ready profit, and avoid great danger and expenses by means of a defensive policy pure and simple”—the Lijntgens affair once again cast its long shadow.¹⁰⁰

The remedy that Grotius proposed to Their High Mightinesses was to exempt the Company from most kinds of federal taxation. It should be excused from paying import duties on Asian wares and, of course, from the tax on booty. The VOC directors would not pocket the savings themselves, but use it to create an *aerarium militare*, a special fund for warfare in the East Indies. In return, the Dutch Estates General could request financial statements from the fund at any time and would receive regular updates on political and military developments in Asia. The VOC directors promised to do their part as well and credit the *aerarium* with four fifths of their privateering profits. Once these profits exceeded the costs of warfare, they would consider paying dividends and certainly honor the claims of the Dutch Estates General. Grotius entreated Their High Mightinesses to either accept his proposals straightaway or at least meet with the VOC directors in conference as soon as possible. Time was precious indeed, as the preparations for the next voyage to the East Indies were well underway.¹⁰¹

The Dutch Estates General was less convinced of the urgency of the business, however. No resolution had been taken by the time Paulus van Caerden put out to sea on 20 April 1606, for example. The VOC directors were still in the dark a month later, when the Gentlemen XVII gathered in Amsterdam for their half-yearly meeting. Hence Grotius was asked to send Their High Mightinesses a reminder in late May 1606. His papers at the Dutch National Archives contain two versions of the reminder letter, which differ very little in style and contents.

¹⁰⁰ Dutch National Archives, Grotius Papers, Supplement I, fol. 375v–377r.

¹⁰¹ *Ibidem* fol. 377v–379r.

Paulus van Caerden left the road of Texel with five ships and a yacht on 20 April 1606.

It should be said, however, that the Delft jurist was much more business-like in his reminder letter than in his original proposal for the establishment of an *aerarium militare*. He came to the point straight-away. The VOC directors had carefully considered the pros and cons of overseas warfare and concluded that they were unable to continue the hostilities in the East Indies without “extraordinary favor, help and assistance of Your High Mightinesses.” Van der Haghen’s victory at Ambon was a case in point: garrisoning the castle captured in February 1605 and securing it against a Portuguese counterattack would entail considerable expense. If Matelief Jr. and Van Caerden were just as successful in carrying out their instructions, the VOC would soon be drained of all its remaining capital, “which had been primarily intended for trade.”¹⁰²

The directors were worried as well about the financial implications of their alliances with native rulers. In revising the reminder letter, Grotius inserted a passage about the Samorin of Calicut, who had offered to oust the Portuguese “not just from his own lands, but from the entire East Indies,” on the condition, however, that he would be assisted with some VOC warships. The Samorin had promised to contribute seventy frigates himself and granted permission to the Dutch to build a castle at Calicut, “which may induce the *hidalcom*, whose empire is located somewhere around Goa, to join this alliance, and other mighty Indian princes as well.” According to Grotius, the VOC directors were in a terrible quandary about how to proceed: they were loath to pass up “such a wonderful opportunity to harm the enemy,” yet lacked the power and wherewithal to rise to the occasion.¹⁰³

Grotius then turned to the issue of privateering. He agreed with the VOC directors that the naval offensive in the East Indies was entirely different in nature and magnitude from Dutch privateering in European waters and deserved the special consideration of Their High Mightinesses. The VOC’s armed trade could not be compared with the charter voyages between the United Provinces and northern

¹⁰² Dutch National Archives, Grotius Papers, Supplement I, ff. 333r, 342r, 369r–v; F.W. Stapel, *Geschiedenis van Nederlandsch Indië* 6 vols. (Amsterdam, 1939) Vol. III pp. 48–53.

¹⁰³ Dutch National Archives, Grotius Papers, Supplement I f. 369v; J.E. Heeres, ‘Corpus Diplomaticum Neerlandico-Indicum’ (Part I, 1596–1650) in: *Bijdragen tot de Taal-, Land- en Volkenkunde van Nederlandsch-Indië* Seventh Series, Part Three (The Hague: Martinus Nijhoff, 1907) pp. 30–31.

and southern Europe, financed by ever-changing combinations of private merchants. They requested privateering commissions just in case their ships should encounter a lone, defenseless Iberian merchantman somewhere in the Mediterranean or Atlantic. The VOC, on the other hand, did nothing secretly or furtively. Its commanders sought out and attacked enemy fleets in a public war and risked “not just some precious ships, but also the trade goods on board.” Costly delays were the inevitable consequence, as “wages continue to be paid to the mariners, soldiers and officers” without any return on capital. Should similar damage have been inflicted on the King of Spain by “some other nation,” the Dutch Estates General would not have failed to support it with all possible means. How much more, then, did the VOC deserve its patronage, as

the victories are celebrated in the name of Your High Mightinesses and His Excellency in the far corners of the world, which creates goodwill among the princes and potentates over there.¹⁰⁴

Indeed, contracts and alliances had already been concluded with native rulers in the name of the Dutch Estates General, as shown by the letters recently received from the East Indies. Grotius inserted this particular passage in the first draft of his reminder letter, yet erased it upon revision. Yet his conclusion remained the same:

all this redounds to the honor and reputation of these Provinces, something one should not value less than the great profits which Your High Mightinesses derive from imported wares in various ways.¹⁰⁵

It was a familiar argument. Grotius had made the same case in chapters fourteen and fifteen of *De Jure Praedae*. Merchants and magistrates should cooperate closely for the glory and benefit of the Dutch commonwealth.

Yet Grotius recognized that oftentimes the reality was quite different. Their High Mightinesses treated the VOC as no more than a milking cow and shamelessly used it to finance their own war effort. He pointed out that they, together with Prince Maurice, collected a “notable portion” of all booty captured in the East Indies. The VOC

¹⁰⁴ Dutch National Archives, Grotius Papers, Supplement I, ff. 333v, 342r–v, 370r–v.

‘His Excellency’ is the customary title of address for Maurice of Nassau.

¹⁰⁵ Dutch National Archives, Grotius Papers, Supplement I, ff. 334r, 342v, 370v.

directors could not bill the remainder of the prize money as profits, but had to reinvest it in the Company in order to continue the hostilities against the Portuguese. Grotius observed that

the [financial] burdens of the common war, which should be divided evenly among all subjects, have for a large part been forced upon the shoulders of a few private persons.

There was a real possibility that VOC shareholders would regret their investment before long, if only because the federal tax on booty made privateering quite unprofitable. The Company had paid outrageously high prices for oriental wares when redeeming the fifth part of each of its prizes from the Dutch Admiralty Board. With the exception of jewels and silk, trade goods could be purchased better cheap in the East Indies. Even if privateering were just as profitable as regular trade, which it was not, Grotius did not doubt that Dutch merchants preferred peacetime profits to wartime gains. His explanation was curiously vague and ambiguous. He blamed the “business practices” (*commerciën*) of Dutch merchants in the first draft of his reminder letter, but substituted the word “humors” (*humeuren*) upon revision. Could this be a veiled reference to the Mennonite ‘problem’? If so, it parallels Grotius’ reluctance in *De Jure Praedae* to explicitly identify the principled pacifism of the Anabaptists as the root cause of shareholder discontent. Significantly, he emphasized in his reminder letter that the investors’ main grievance was, in fact, the VOC’s failure to pay dividends. His gratuitous remark about the fickle ‘humors’ of Dutch merchants must be recognized for what it was: a cheap scare tactic to obtain concessions from the Dutch Estates General. Grotius had no qualms about reminding Their High Mightinesses of the ill-understood problems of the past if it could conceivably persuade them to grant the VOC directors’ present wishes.¹⁰⁶

Grotius continued to practice rhetorical blackmail in the summation of his reminder letter. He warned the Dutch Estates General that, if material support was not forthcoming, the “petitioners” would positively forbid their commanders to “take enemy strongholds, chase and capture enemy ships, let alone assist East Indian princes harassed by the Portuguese.” Instead, the VOC directors would discard each

¹⁰⁶ *Ibidem* ff. 334r–v, 342v, 370v–371v.

and every “commission for war” and restrict the use of force to cases of self-defense only. Such a policy change must, regrettably, be detrimental to the public interest. Their High Mightinesses risked losing tax revenues that were quite substantial. If VOC fleets were put on a defensive footing, it might well have an adverse effect on the Indies trade, which, in turn, would dramatically reduce the revenues from import and export duties. At the same time, the enemy would undoubtedly go from strength to strength. All this could be prevented if the Dutch Estates General took care “not to insist too vigilantly on minor profits, lest the major benefits be lost.” Grotius proposed to charge the VOC directors somewhat less in federal taxes, although he realized, of course, that only “Your High Mightinesses” could determine which level of taxation was compatible with equity and the common good.¹⁰⁷

It is clear that Grotius and the VOC directors played hardball with the Dutch Estates General, but it is less certain that they met with any success. Their High Mightinesses never gave any serious thought to Grotius’ proposal for an *aerarium militare*, for example. The VOC was granted exemptions from import and export duties only during the Twelve Years’ Truce, when the federal government enjoyed more room for maneuver and managed to balance its budget. Judging by the minutes of the half-yearly meeting of the Gentlemen XVII in August 1606, there had been no immediate response to the reminder letter. The Dutch Estates General made just one belated concession, in fact: the Company received permission in August 1606 to dispose of some of its prizes in the East Indies, instead of auctioning these off in the Dutch Republic. Although the VOC was still expected to pay the federal tax on booty, the assessment would correspond to the value of the goods in Asia, not Europe. This was as far as Oldenbarnevelt would go: he had no desire to conciliate the VOC directors on any other issue raised in the reminder letter.¹⁰⁸

¹⁰⁷ Ibidem ff. 334v, 343r, 371v–372r.

¹⁰⁸ Dutch National Archives, Grotius Papers, Supplement I, fol. 337–340 and VOC 99, ff. 207–209 (agenda items 12, 15, 17 and 19 of the meeting of the Gentlemen XVII on 28 Aug. 1606); Van Dam, *Beschryvinge van de Oostindische Compagnie* Vol. 1 (RGP 63) pp. 44 and Vol. 6 (RGP 87) pp. 471–473, 477–479; *Resolutiën der Staten-Generaal: Nieuwe Reeks, 1610–1679* RGP 135 pp. 254–256, 350–351, 507 (printed minutes of the Dutch Estates General of Nov. 16–17, 1610, March 24, 1611, and Nov. 10, 1611); *Resolutiën der Staten-Generaal: Nieuwe Reeks, 1610–1679* ed. A. Th. van Deursen (The Hague: Martinus Nijhoff, 1971 - ..) Vol. 2 (RGP 151) pp. 173–175,

3.9 Conclusion

Even though their efforts backfired in the spring of 1606, Grotius and the VOC directors joined forces on many other occasions. Whenever the need arose, they petitioned the Dutch Estates General to intercede on the Company's behalf, which was often enough. Their High Mightinesses were indeed instrumental in protecting the VOC from (potential) European competitors and in defusing some of the tensions that arose as a result of its naval and military offensive in the East Indies. Dutch diplomatic pressure persuaded Henry IV of France to disown the trading ventures of Balthasar de Moucheron, Pieter Lijntgens and Francisco Carletti, for example, as well as to suspend his plans for the establishment of a French East India Company. Nor did the Dutch Estates General have much sympathy for shareholders' complaints about the low return on their capital. The Dutch Estates General realized that the VOC could not continue the war in the East Indies unless recalcitrant investors were brought to heel—the latter were forced to redeem their shares in regular installments, for example. Its intercession was equally opportune in the Carletti affair. The out-of-court settlement that was reached through its mediation served to assuage the Grand Duke of Tuscany, who had threatened reprisals against Dutch shipping. Yet this arrangement cleverly avoided any recognition of the rights of neutrals—the VOC directors were free to pursue their privateering campaign as before. The trading privileges of New Christian mer-

179, 338, 592 (printed minutes of the Dutch Estates General of Dec. 30, 1613, Jan. 6 & 14 Oct. 1614, and 14 March 1616); Enthoven, *Zeeland en de opkomst van de Republiek* pp. 208–210.

The VOC directors had already submitted a proposal to the Estates of Holland in January 1605 that closely resembled the two petitions drafted by Grotius in the spring of 1606. The Estates of Holland decided on 12 January 1605 that the VOC would a) be allowed to sell its booty in the East Indies, and b) be exempted from paying import or export duties on these prize goods in Holland. The VOC received permission to incorporate captured warships into its own fleets as well, along with any guns and ammunition taken from the enemy. Yet the Estates of Holland made the proviso that none of these concessions should be construed as impugning “the right of the Dutch Estates General.” It is highly doubtful that the concessions made by the Estates of Holland amounted to anything in practice. Their High Mightinesses had refused a similar request from the VOC directors in November 1604. Compare Van Dam, *Beschryvinge van de Oostindische Compagnie* Vol. 1 (RGP 63) p. 44 and *Register van Holland en Westvriesland, 1604–1606* pp. 383–384 (printed minutes of the Estates of Holland).

chants who lived and worked in the United Provinces were curtailed for the exact same reason, much to Grotius' satisfaction. Occasionally, Their High Mightinesses would even admonish the penurious Dutch Admiralty Board to be a) less precise in collecting its fifth share of all VOC booty and b) more generous in lending the Company its warships, guns and ammunition. As far as Grotius was concerned, Dutch merchants and magistrates could not have any diverging interests. *De Jure Praedae* appealed to the Dutch Estates General to stand by the VOC directors, who, in turn, were expected to do their duty to the Dutch commonwealth.

Yet Grotius' defense of VOC privateering was curiously backward looking. In both *De Jure Praedae* and *Annales et Historiae*, he fought a rearguard action against all those who had disputed the capture of the *St. Jago*, for example. If *De Jure Praedae* was meant to be a running commentary on a series of challenges faced by the VOC directors, Grotius must have realized that political events had already caught up with him by the time he finished the manuscript in November 1606. He may well have withheld it from publication precisely for this reason. The Peace and Truce negotiations between the Dutch Estates General and Philip III of Spain and Portugal, which lasted from February 1608 until April 1609, must have been an important consideration as well. It would have been inappropriate for Grotius to publish a saber-rattling treatise like *De Jure Praedae* after the Eight Months' Armistice went into effect on 4 May 1607. Instead, Grotius teamed up with the VOC directors in order to sway the negotiations in the Company's favor. The next chapter discusses the memorandum which he wrote for the VOC directors in January 1608 and reconstructs its important role in the peace negotiations of February and March 1608. Oldenbarnevelt clearly took his cue from Grotius when he informed the Archdukes' representatives that freedom of trade and navigation was a universal right, which could not be abridged by either peace or war.

CHAPTER FOUR

HUGO GROTIUS AND THE PEACE NEGOTIATIONS BETWEEN SPAIN AND THE UNITED PROVINCES, 1607–1608

4.1 *Introduction*

This chapter examines Grotius' contribution to the peace negotiations between the Dutch Estates General, the Archdukes, and the Spanish Crown in 1607–1608. Although abortive, the peace negotiations proved to be a splendid opportunity for Grotius to put legal theory into practice. At the request of the VOC directors, he wrote a memorandum detailing the options that were available to the Company in case the Dutch Estates General made peace with Philip III of Spain and with Archdukes Isabella and Ferdinand, the rulers of the Southern Netherlands. The memorandum made a strong case for freedom of trade and navigation in the East Indies. Yet Grotius correctly predicted that Philip III would never agree to this and that the war against the *Estado da India* would continue as before, despite the cessation of hostilities in Europe. Ironically, the peace negotiations of February to April 1608 served only to intensify Dutch empire-building overseas. Eager to steal a march on the Portuguese, the VOC directors sent new instructions to their commanders in Asia in April 1608. The latter received explicit orders to change the situation on the ground in the Company's favor *before* a peace treaty came into effect. Grotius' memorandum was instrumental in this regard. Grotius had warned the VOC directors that, as a concession to Philip III, the Dutch Estates General might well put certain limits on their Asian trade and navigation, confining it to places that were under their or their allies' effective control, for example. (Grotius recognized that a sovereign power like the Dutch Estates General had every right to 'regulate' the trade of its subjects.) His pronouncements were sufficient to provoke another round of Dutch conquest and colonization in the East Indies, which brought the VOC increasingly into conflict with both its indigenous allies and the English East India Company.

This particular instance of the interaction of Dutch politics and Grotian political theory has been little understood by historians and legal scholars. Allegedly, Grotius' contribution to the peace negotiations consisted of little more than a meager juridical exposé of April 1607, in which he argued that the Archdukes did not have full sovereignty over the Southern Netherlands and questioned their authority to negotiate a peace treaty. It is hard to believe that this made him a member of the war party, however. His political patron, Oldenbarnevelt, resolved most of the issues raised in *Observationes Juridicae* by insisting that Philip III countersign the Eight Months' Armistice and any other treaty between the Archdukes and the Dutch Estates General. The memorandum for the VOC directors was no war party manifesto either. It was an extremely successful attempt on Grotius' part to get the best possible deal for the Company in the peace negotiations of February and March 1608. In a very real sense, he was still working out the practical implications of *De Jure Praedae*. Let us remind ourselves of the immediate historical context of this work before we discuss Grotius's contribution to the peace talks.

As we have seen in previous chapters, inchoate notions of freedom of trade and navigation already informed Dutch privateering in the East Indies before Grotius sat down to write *De Jure Praedae*. Van Heemskerck's own justification of the capture of the *Santa Catarina* reached him in the form of the verdict of the Amsterdam Admiralty Court. Yet the judges' references to natural rights, *ius gentium* and the law of war were haphazard at best, which Grotius sought to correct in *De Jure Praedae*. He did not just develop a systematic theory of the just war, but also integrated it with humanist ethics and historiography. Unless Portuguese officials were shown to be recidivist transgressors of the natural law, and unless the Company's alliances with 'infidel' rulers were presented as perfectly valid and even respectable, Grotius could not justify any kind of prolonged hostilities between the VOC and the *Estado da India*. Grotius also considered it his task in *De Jure Praedae* to remind the Dutch Estates General of its obligations to the Company. The VOC directors needed all the help they could get from Their High Mightinesses in order to assuage the Company's growing pains. Grotius knew that there had been many contenders for rich prizes like the *St. Jago* and *Santa Catarina*. In both cases, the regional trading companies pocketed the bulk of the proceeds because of the intercession of the Dutch Estates General.

Grotius assumed, not unreasonably, that the same applied to future VOC prizes. Their High Mightinesses could do no less for the VOC than they had done for the regional trading companies, certainly if they wanted the war to continue in the East Indies. A bigger worry, however, was the disaffection among VOC shareholders, who did not receive any dividends in the first eight years of the Company's existence. If eminent merchants like Pieter Lijntgens jumped ship, they could easily persuade other VOC shareholders to do the same and invest in a French East India Company instead. Peaceful trade in the East Indies might well yield a higher return on capital than war and privateering. At this juncture, it was vital for the VOC directors to have the full backing and support of the Dutch Estates General, which explains why Grotius concluded *De Jure Praedae* with an explicit appeal to Their High Mightinesses to assist the Company with all possible means.

The present chapter explores the political impact of *De Jure Praedae* in the medium term, particularly its role in the peace talks of February and March 1608. Historians and legal scholars have hitherto assumed that Grotius warily kept his distance from the political crises that convulsed the United Provinces in 1607–1609. True, he questioned the Archdukes' authority to negotiate a peace treaty in *Observationes Juridicae* of April 1607 and published the twelfth chapter of *De Jure Praedae* as *Mare Liberum* in the spring of 1609. But otherwise, so the argument goes, he maintained a dignified silence while the country's political elite hotly debated questions of war and peace. This view is not supported by the archival evidence. Grotius' memorandum for the VOC directors shows that he was actively engaged in the political horse trading that accompanied the peace negotiations in the winter and spring of 1608.

Although they could not prejudge the outcome of the negotiations, the VOC directors considered it their duty to safeguard the Company's commercial interests, regardless of whether the Dutch Estates General opted for war, truce or peace. They asked Grotius in the autumn of 1607 to prepare a memorandum for the Gentlemen XVII that discussed the implications of the peace talks for the Indies trade. Grotius outlined three possible scenarios: 1) a peace treaty that guaranteed the VOC freedom of trade and navigation, 2) a treaty that ordered a Dutch withdrawal from the East Indies, and 3) a treaty that permitted a continuation of the war beyond the Line (i.e. the Tropic of Cancer). Grotius preferred freedom of trade and

navigation to all other options, but admitted that it might well prove unacceptable to Philip III. He advocated a continuation of the war in the East Indies as the second best alternative and, in fact, the most likely outcome of the negotiations. The VOC directors were so enthusiastic about Grotius' memorandum that they submitted it to the Dutch Estates General in early February 1608. Oldenbarnevelt immediately adopted Grotius' recommendations as the official Dutch negotiating position and even used his protégé's arguments to counter Habsburg demands for a Dutch withdrawal from the East Indies. The gamble seemed to pay off: the Archdukes' representatives accepted Oldenbarnevelt's proposal for a nine-year armistice in the East Indies and sent it to Spain in April 1608 in order to obtain the King's approval. This compromise would neither oblige the VOC to withdraw from the East Indies at any point in the future nor prohibit a resumption of the war after its expiration. Not surprisingly, Philip III rejected Oldenbarnevelt's proposal out of hand, although he kept the Dutch Estates General in the dark about his decision until the middle of August 1608.

The VOC directors did not wait for Philip III's reply, but send copies of Oldenbarnevelt's proposal to their commanders in Asia rightaway. They prepared a new set of instructions for Pieter Willemszoon Verhoef, the commander of the Fourth Voyage, in April 1608. The fast-sailing yacht *Greyhound* (*Hazewint*) was dispatched that same month, which caught up with the VOC commander in Malacca Straits on 10 February 1609. Verhoef was told to renew the Company's contracts and alliances with indigenous rulers and to cease his attacks on Portuguese strongholds. He had, for example, besieged Mozambique in the summer of 1608 and blockaded Goa in the autumn. Oldenbarnevelt's proposal guaranteed free trade to both the Dutch and the Portuguese for the duration of the armistice, but only in those places where neither of them enjoyed 'actual possession'. However much the VOC directors liked free trade, they believed, not without reason, that they stood a better chance of securing market access in Southeast Asia on the basis of 'actual possession'. Verhoef needed to act quickly and create a clearly defined Dutch sphere of influence before the proposed armistice came into effect on 1 September 1609. Otherwise the Company would not be able to exclude the Portuguese or any other commercial competitors from, for example, the Spice Islands. Verhoef realized what was at stake: he renewed the Company's contracts and alliances with a

number of native rulers and established Dutch fortresses wherever he could, if necessary in the teeth of native opposition. His successes were uneven, however. The sultan of Johore was happy to affirm his alliance with the VOC, but he did not give Verhoef permission to build a Dutch fortress. The political developments in the Banda Islands were even more confusing. An anti-VOC faction gained the upperhand among the Bandanese and went to great lengths to prevent the establishment of a Dutch fortress on the island of Neyra. Its adherents managed to ambush and kill Verhoef in May 1609, igniting a civil war in the Banda Islands.

The Bandanese had good reason to be apprehensive at the Dutch military build-up. Once established, VOC strongholds did not remain mere tokens of 'actual possession' for long. Although they were initially intended to ward off the Iberian enemy, these fortresses soon became the nuclei of Dutch territorial sovereignty in the Spice Islands. Ironically, Oldenbarnevelt's proposal for a nine-year truce in the East Indies launched the Company on a path towards full-fledged colonialism and imperialism. When the VOC directors drew up Verhoef's new instructions, they imagined, of course, that they had the welfare of both the Company and its native allies at heart. Yet they were so eager to outwit the Portuguese and gain the upper hand in Southeast Asia that they built in few safeguards for the rights of indigenous peoples. The rise of Dutch power in the Spice Islands quickly became a sorry tale of native disenfranchisement and exploitation. VOC commanders systematically subordinated the Spice Islands to Dutch commercial interests in the second decade of the seventeenth century. Laurens Reael, a jurist by training, argued explicitly that the Company was permitted under natural law to enforce the treaties and punish recalcitrant islanders for breach of contract. Ever the VOC apologist, Grotius wholeheartedly defended these dubious practices at the Anglo-Dutch colonial conferences of 1613 and 1615. Just how he managed to reconcile freedom of trade and navigation with the inviolability of contracts is explained in chapter six.

Grotius' contribution to the Peace negotiations of 1608 is the topic of the present chapter. Section 4.2 examines Grotius' reaction to the armistice treaty of April 1607, which preceded the peace negotiations between the Dutch Estates General and the Archdukes and Philip III. It is instructive to compare his juridical exposé on the deficient title of the Archdukes with the pamphlets and other

memoranda that were written in the direct aftermath of the armistice treaty. Grotius' exposé has little in common with the 'Short Discourse' written by François van Aerssen, the Dutch agent in Paris. To be sure, both men entertained some legitimate concerns about Habsburg trustworthiness. Yet Grotius was no war party stalwart like Van Aerssen and offered no alternative to Oldenbarnevelt's peace policies. The exposé may well have been written at Oldenbarnevelt's request, in fact. It listed every single juridical argument that could possibly invalidate a treaty with the Archdukes and Philip III of Spain. This was very useful for Oldenbarnevelt to know, especially in his dealings with the Archdukes' representatives and the war party of Prince Maurice. Grotius' involvement with the peace talks did not end here. He exerted a much more profound influence on the negotiations by means of the memorandum written for the VOC directors. The memorandum and its role in the peace talks are discussed in some detail in section 4.3. Its impact on VOC policy-making is analyzed in section 4.4. The VOC directors were determined to change the situation on the ground before a nine-year truce came into force in Asia. The law of unintended consequences caught up with them, however. It was Verhoef's faithful execution of their orders of April 1608 that unleashed a long and bloody war in the Banda Islands, which severely reduced the quantity of mace and nutmeg harvested in these places. It was a far cry from the profitable monopoly of the spice trade that Verhoef had sought to create at the directors' behest.

4.2 *Grotius and the Eight Months' Armistice of April 1607*

On 21 April 1607, Hugo Grotius informed an unknown foreign correspondent that the Dutch Estates General had agreed to an armistice of eight months as a preliminary to peace negotiations with the Archdukes and Philip III. This was not the first attempt to bring the warring parties to the conference table: the Dutch Revolt had been punctuated by peace conferences at Breda in 1575 and Cologne in 1579. In Grotius' own lifetime, the Estates General of the United Provinces had briefly met with its southern counterpart at Bergenop-Zoom, following Philip II's cession of his Burgundian inheritance to his daughter Isabella. When the Archdukes arrived in Brussels in the summer of 1599, they had been desperate to put an end to the

war and called a meeting of the long-redundant Estates General of the Southern Netherlands. More importantly, they had given it permission to negotiate on their behalf with the rebels in the United Provinces. These dramatic developments had nonetheless failed to make an impression on Johan van Oldenbarnevelt, Advocate of Holland and *de facto* political leader of the Dutch Republic. If anything, the Bergen-op-Zoom conference of July 1600 had revealed the old differences to be as insurmountable as before. Oldenbarnevelt had insisted that all Spanish troops leave the Low Countries immediately, while refusing to discuss freedom of worship for Roman Catholics living in the north, or, for that matter, to revoke the Republic's abjuration of Philip II and his heirs.¹

This string of abortive conferences notwithstanding, Grotius must have realized that the prospects for peace were better than ever before. The war had become a dead-end, in both a fiscal and a strategic sense. The Dutch and Spanish armies had fought each other to a standstill: Prince Maurice had been unable to dislodge the enemy from the Southern Netherlands, while Marquis Ambrosio Spinola had failed to make any inroads in Holland and Zeeland, the heartland of the United Provinces. Nearly forty years of continuous warfare had also severely depleted the Dutch and Spanish exchequers. Both Oldenbarnevelt and the Duke of Lerma, the favorite of Philip III, saw the need for financial retrenchment, which implied a political, instead of a military, solution to the conflict. In Oldenbarnevelt's case, there was another consideration as well. Henry IV of France had grown tired of financially supporting the Dutch war effort, which brought him few military and political advantages. Prince Maurice had, for example, failed to deliver him the Flemish coast: the Newport campaign of 1600 had been a near disaster. Hence the French monarch proposed in 1606, and again in 1607, that the Dutch Estates General offer him something more substantial in return for his generous subsidies, preferably the overlordship of the United Provinces. These demands were sufficiently alarming for Oldenbarnevelt to open negotiations with the Archdukes, even though it meant that the Dutch

¹ *Briefwisseling van Hugo Grotius* Vol. I p. 85; W.J.M. van Eysinga, "De wording van het twaalfjarig bestand van 9 april 1609" in: *Verhandelingen der Koninklijke Nederlandse Akademie van Wetenschappen, Afd. Letterkunde* Nieuwe Reeks, deel LXVI, no. 3 (Amsterdam, 1959) pp. 19–20; Den Tex, *Oldenbarnevelt* vol. II pp. 338–339, 355–356, 374–380; Jonathan Israel, *The Dutch Republic: Its Rise, Greatness, and Fall, 1477–1806* (Oxford: Clarendon Press, 1995) pp. 254–257.



Figs. 16 and 17. Portraits of the Archdukes Isabella and Albert.

Estates General could no longer cherish the hope of liberating the south from Spanish occupation. In his letter of 21 April, Grotius suggested that the specter of French suzerainty over the Northern Netherlands had clinched matters for the Archdukes as well. Their envoys had declared in the Dutch Estates General that Albert and Isabella considered the Dutch “a free people,” upon whom they had no claims whatsoever, a concession which, Grotius admitted, “nobody had considered possible.”²

Grotius appraised the prospect of peace negotiations in various literary formats, which included letters, poems, and a juridical exposé, published by W.J.M. Eysinga in 1959. Let us take a closer look at Eysinga’s highly influential source publication, which has defined Grotius’ reaction to the peace talks in the secondary literature. The manuscript discovered by Eysinga is a scribal copy with marginalia in Grotius’ hand. It forms part of the Grotius Papers in Leiden University Library and lacks a proper title. It is catalogued, however, as *Observationes juridicae contra pacem cum archiduce Alberto*. Eysinga prefaces his source edition with a summary of its contents, as well as some thoughts on its date of composition and its resemblance to other war party writings, such as the so-called Oldenbarnevelt memorandum (*Memorie van Johan van Oldenbarnevelt*). Eysinga alleges in his introduction that Grotius finished his exposé in late April 1607 and translated it into Dutch for possible publication. According to Eysinga, the so-called Oldenbarnevelt memorandum was simply a translation and extensive reworking of Grotius’ exposé, even though it lacked any of the technical terms, references to legal texts, and forensic mode of argumentation characteristic of Grotius’ work. Eysinga explains this anomaly, not very convincingly, as a conscious effort on the part of Grotius to popularize his ideas and put them in publishable form. Eysinga even suggests that the so-called Oldenbarnevelt memorandum was incorporated into the anonymous pamphlet *Reflections on the Low Countries Peace (Consideratien vande vrede in Nederlandt)*, published in 1608, and Van Meteren’s *History of the Low Countries War (Historie der Nederlandscher ende haerder Naburen Oorlogen)*, published in 1613. Why should Grotius first have written the exposé, and then

² Eysinga, “De wording van het twaalfjarig bestand van 9 april 1609” pp. 22–66, 69–74, 78–79, 85, 87; Den Tex, *Oldenbarnevelt* vol. II: *Oorlog, 1588–1609* pp. 334–383, 421–461; S. Barendrecht, *François van Aerssen: Diplomaat aan het Franse Hof, 1598–1613* (Leiden: Leiden UP, 1965) pp. 148–182; *Briefwisseling van Hugo Grotius* Vol. I p. 85.

have translated and extensively remolded it? If we are to believe Eysinga, it was Oldenbarnevelt who had commissioned this piece of anti-Habsburg propaganda from Grotius, just in case the negotiations collapsed, which remained a real possibility right until the end.³

Eysinga's interpretation has not gone uncontested. Jan den Tex argues in his Oldenbarnevelt biography that it was François van Aerssen, the Dutch agent in Paris, who wrote the so-called Oldenbarnevelt memorandum. Den Tex cites the agent's correspondence with the French privy councilor Villeroy as evidence. Van Aerssen boasted in his letter of 9 March 1607 that he had written a 'short discourse' (*petit discours*) denouncing the anticipated peace conference, which allegedly had made such an impression in the Dutch Republic that he had converted whole provinces to his point of view. Den Tex admits that the so-called Oldenbarnevelt memorandum must be a later version of 'Short Discourse'. Internal evidence shows that the memorandum could not have been written before June 1607. Yet why should Oldenbarnevelt have copied out a war party tract in his own hand? Den Tex argues that Oldenbarnevelt made a copy of 'Short Discourse' in order to become thoroughly acquainted with the views of the war party and prepare a defense of his peace policies.⁴

In addition, Den Tex tries to reconstruct the historical context of Grotius' exposé. According to Den Tex, the exposé was written sometime after a meeting on 7 March 1607 of the secret committee (*secret besogne*) for foreign affairs of the Dutch Estates General. The secret committee conferred with Father Jan Neyen, an envoy of the Archdukes, several times in March 1607 in order to determine whether

³ *Briefwisseling van Hugo Grotius* Vol. I pp. 85, 95–96; *The Poetry of Hugo Grotius: Original Poetry, 1604–1608* ed. Edwin Rabbie (Assen, The Netherlands: Van Gorcum, 1992) pp. 90–92 (*In Obitum Pauli Choarti Buzawalii*); Grotius Papers at Leiden University Library, BPL 922–I (*Collectanea autographa de Jure Publico*) fol. 308–313 (*Observationes juridicae*); W.J.M. van Eysinga, 'Eene onuitgegeven nota van De Groot,' *Mededelingen der Koninklijke Nederlandse Academie van Wetenschappen, Afdeling Letterkunde New Series* Vol. 18, no. 10 (1955) pp. 235–252, reprinted in *Sparsa Collecta: Een Aantal Verspreide Geschriften van Jonkheer Mr. W.J.M. van Eysinga* ed. F.M. van Asbeck, E.N. van Kleffens et alii (Leiden, 1958) pp. 488–504; M.L. van Deventer, *Gedenkstukken van Johan van Oldenbarnevelt en zijn tijd* 3 vols. (The Hague: Martinus Nijhoff, 1865) Vol. III (1604–1609) pp. 137–147 (so-called Oldenbarnevelt memorandum); Eysinga, "De wording van het twaalfjarig bestand van 9 april 1609" p. 93.

⁴ Jan den Tex, *Oldenbarnevelt* vol. IV: *Documentatie* (Haarlem: Tjeenk Willink & Zoon, 1970) pp. 142–145 (*Excursus XXIV*); Den Tex, *Oldenbarnevelt* vol. II p. 567; Barendrecht, *François van Aerssen* pp. 175–176.



Fig. 18. Portrait of Father Jan Neyen.

the Archdukes seriously intended to recognize the independence of the United Provinces. (Otherwise there could be no peace negotiations as far as Their High Mightinesses were concerned.) Yet Oldenbarnevelt quizzed the Franciscan friar on other issues as well. In the meeting of 7 March, Neyen was asked to comment on the canon law principle that absolved Catholics from keeping faith with heretics (*haereticis servandam fidem non est*). As Oldenbarnevelt pointed out, the Council of Constance (1415) had executed the Czech reformer Johannes Hus in flagrant disregard of the Holy Roman Emperor's letter of safe-conduct. Neyen, who had been primed by Oldenbarnevelt beforehand, gave an elaborate answer, insisting on the one hand that the Roman Catholic Church knew no such rule, while arguing on the other hand that the Council of Constance was not bound by the Emperor's word of honor. The committee members accepted Neyen's explanation good-humoredly and then moved on to other, more important, issues. Although this episode has little historical significance in and of itself, Den Tex suggests that there may be a link with Grotius' exposé, which refers explicitly to the decree of the Council of Constance "that denies that faith should be kept with heretics."⁵

Unfortunately, Den Tex fails to flesh out the political context of Grotius' exposé and its possible meaning for the war and peace parties. Did Oldenbarnevelt commission the exposé in order to help Father Neyen prepare for the committee meeting on 7 March 1607? Or was the exposé written at a different time and for an altogether disparate purpose? In that case, what appear to be the shared concerns of Oldenbarnevelt and Grotius may simply have been a matter of coincidence. To be sure, both Eysinga and Den Tex were

The so-called Oldenbarnevelt memorandum makes mention of Van Heemskerck's victory at Gibraltar on 25 April 1607. This news reached the Estates General only on 2 June 1607. In other words, the text could not have circulated in its current form before the summer of 1607.

Ronnie Kaper has his doubts about Van Aerssen's authorship of 'Short Discourse'. In his view, there are remarkable similarities with Prince Maurice's correspondence, for example. He concludes that its author must have belonged to the Stadtholder's inner circle. Compare Ronnie Kaper, "Pamfletten over Oorlog of Vrede: Reacties van tijdgenoten op de vredesonderhandelingen van 1607-1609" (Werkschrift 15), Unpublished MA thesis, University of Amsterdam, 1980, p. 72.

⁵ Den Tex, *Oldenbarnevelt* vol. II: *Oorlog, 1588-1609* p. 561; Eysinga, 'Eene onuitgegeven nota van De Groot' pp. 237, 245-246; Kaper, 'Pamfletten over Oorlog of Vrede' pp. 26-28.

right to assume a connection between Grotius' exposé and the Eight Months' Armistice that went into effect on 4 May 1607. Yet the alignment of historical facts and Grotius' reflections thereupon is less clear-cut than either of them wishes us to believe.

Eysinga is clearly guilty of overinterpreting Grotius' exposé when he attempts to tease out its political implications. Grotius' definition of a just peace and his purely legal objections to a possible peace treaty did not automatically make him a member of the war party. Grotius' concerns regarding the validity in point of law of a possible peace treaty are quite different from, for example, François van Aerssen's enthusiastic plea for a continuation of the war. The concluding paragraph of Grotius' exposé is both wordy and ambiguous. On the one hand, it repeats all the truisms about Habsburg bad faith that are familiar from his earlier works. On the other hand, it urges the Dutch to exercise vigilance—always a good thing—and to pin their hopes on the monarchs of France and England—a mantra soon adopted by Oldenbarnevelt and the peace party.⁶

Was Grotius reticent on purpose in his concluding paragraph? Did he have second thoughts about proposing an alternative to Oldenbarnevelt's peace policies? The Advocate of Holland happened to be his patron in Dutch politics, after all. Or did even Grotius have to admit that there was no clear-cut solution for the political and military conundrum faced by the Dutch Republic? In both poetry and prose, Grotius betrayed his own uneasiness at the uncertain situation created by the Eight Months' Armistice. That, together with his lingering distrust of the enemy, was what Grotius had in common with the war party of Prince Maurice, which expressed similar sentiments in a host of pamphlets published in 1607 and 1608.⁷

In *Observationes Juridicae*, Grotius cited a variety of legal grounds to question the validity of any treaty that the Dutch Republic might

⁶ Eysinga, 'Eene onuitgegeven nota van De Groot' pp. 251–252; Fikentscher, *De Fide et Perfidia: Der Treuegedanke in den "Staatsparallelen" des Hugo Grotius aus heutiger Sicht* pp. 128–129; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 168–215; Peter Borschberg, '“De Pace”: Ein unveröffentlichtes Fragment von Hugo Grotius über Krieg und Frieden', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung* 115 (1996) pp. 268–292.

⁷ Eysinga, 'Eene onuitgegeven nota van De Groot' pp. 251–252; *The Poetry of Hugo Grotius: Original Poetry, 1604–1608* ed. Edwin Rabbie (Assen, The Netherlands: Van Gorcum, 1992) pp. 90–92 (*In Obitum Pauli Choarti Buzawalii*); Kaper, "Pamfletten over Oorlog of Vrede" pp. 23–28.

conclude with the Habsburg enemy. Grotius denied, for example, that the Archdukes had a proper mandate for negotiating with the United Provinces. When Philip II ceded the Low Countries to the Infanta, the monarch violated the customs regulating the royal succession, which clearly preferred males to females, even if the crown prince had elder siblings. In Grotius' train of thought, it was neither here nor there that Philip III had ratified the cession: the Northern Provinces had not given their approval, nor were they likely to do so in the future. Even if the cession were valid—which it was not—the Archdukes had at least one hand tied behind their backs. According to the terms of the cession treaty, the Archdukes would lose their inheritance, for instance, if they compromised the Catholic religion in any way. One of their official titles was, in fact, 'defenders of the faith' (*defensores fidei*). In addition, their subjects were not allowed to participate in the East Indies trade, which Philip II had declared off limits for all inhabitants of the Low Countries. The cession treaty also suggested that, as vassals of the Spanish king, the Archdukes would need permission from their liege lord before they could relinquish their claim to the United Provinces. It would furthermore appear that the Archdukes could only grant a temporary independence to the United Provinces. Under the terms of the cession treaty, the Low Countries must revert to the Spanish crown after their deaths, assuming that their marriage remained childless. Grotius had thought of the possibility that Philip III might give the Archdukes a separate mandate for peace negotiations, or decide to ratify a treaty between the Dutch Republic and the Archdukes after the fact. (This was indeed what happened in July 1609.) Yet Grotius was clever enough to find something to say against either option: a mandate could always be disavowed by Philip III at a later point in time, while any ratification *ex post facto* would falsify the Archdukes' claim to be sovereign rulers of the Low Countries. Grotius was clearly adept at making legal mountains out of molehills, nor were his objections terribly original. Similar arguments had been used in *Copy of a Certain Letter* (*Coppe van seeckeren brief*), an anonymous pamphlet published in 1599, which combined a Dutch translation of the cession treaty with extensive marginalia questioning its validity.⁸

⁸ Eysinga, 'Eene onuitgegeven nota van De Groot' pp. 236–237, 244–245: *Coppe van seeckeren brief geschreven by een van qualiteyt aen den Abt van N. wesende tot Brussel* Knuttel 1103 (n.p., 1599).

Original or not, Grotius continued to pile argument upon argument to prove that negotiating with the Habsburgs was a dangerous business indeed. The doctrines of the Roman Catholic Church were particularly unhelpful in this respect. Did the Council of Constance not decree that faith should not be kept with heretics? Canon law taught that no government consisting of excommunicates (read: Protestant magistrates) was legitimate and that the Pope might confiscate lands owned by heretics. Nor was a Catholic obliged to observe treaties that were illegal or contrary to conscience (*pacta illicita et contra conscientiam servanda non sunt*). In other words, the Pope could absolve Philip III from any sworn treaty with the Dutch. There was still another way out for the Spanish king and his heirs, as both Roman law and French custom, not to mention the medieval doctors and modern authorities, conspired to provide them with the widest possible prerogative and an indivisible inheritance. Grotius noted that Roman law had always permitted the Prince (*princeps*) to break contracts whenever he saw fit. It was entirely possible that Philip III would keep no more faith with the Dutch, whom he regarded as rebels, than with robbers and thieves. This much was clear from a treatise on the law of war written by Balthasar Ayala (1548–1584), auditor of the Army of Flanders and author of *De Iure et Officiis Bellicis et Disciplina* (1582). Nor could a king lawfully alienate any part of his realm according to French customary law, as compiled by Francis Hotman and Jean Papon. Two Spanish juriconsults had reached the same conclusion, Fernando Vázquez de Menchaca (d. 1559) in his *Illustrium Controversiarum* (1599) and Ayala in his *De Iure et Officiis Bellicis et Disciplina*. To be sure, Grotius had no more than a rudimentary notion of the territorial integrity of a state. Yet he realized its special significance for the Low Countries. As Grotius pointed out, the Pragmatic Sanction of 1549 stipulated that the Burgundian inheritance of Charles V could not be dissolved without the consent of all seventeen provinces. It would be hard, not to say impossible, to reach a unanimous decision. Finally, there was the difficulty that, in principle, the descendants of Philip III would never lose their title in law and could always reclaim their inheritance in its entirety. No monarch was bound by his predecessor, certainly not if his predecessor had unlawfully alienated part of the realm, as proven by Jean Bodin (1529–1596) in his *Six Livres de la République* (1576) and Alberico Gentili (1552–1608) in his *De Jure Belli* (1598). According to feudal law, all agnates of Philip III would continue to have a

perfectly valid title to the entire Low Countries. As Grotius noted, “the Dukedom of Guelders, the Counties of Holland, Zeeland and Zutphen, the lordship of Utrecht, the provinces of Friesland, Overijssel, and Groningen (including the Ommenlanden and Drenthe)” were still considered fiefs of the Holy Roman Empire. Extrapolating from the *Libri Feudorum*, Grotius concluded that these fiefs could not be alienated without the consent of the Holy Roman Emperor and would, in fact, revert to him if Philip’s line should die out (*in defectum agnatorum*). The Delft jurist could name even more exceptions if he wanted to, but mercifully decided that these “would take too long to discuss.”⁹

Grotius had clearly thought of every legal argument that could possibly be mustered against a peace treaty between the Dutch Republic and the Archdukes and/or Philip III. Yet the question remains whether Grotius wrote *Observationes Juridicae* to achieve a specific political end. Eysinga answered this question in the affirmative: he interpreted the last paragraph of *Observationes Juridicae* as evidence for Grotius’ affiliation with the war party. Grotius first reminded his compatriots that they were up against a much stronger enemy, whose word of honor was of little value, and then pleaded with them to establish a strong central government and rely on the military assistance of the French and English allies. Yet Eysinga’s paraphrase fails to do justice to the sheer complexity of the last paragraph of *Observationes Juridicae*. Grotius did not endorse the agenda of the war party, but engaged in a careful balancing act. To be sure, he trusted the Habsburg enemy as little as Prince Maurice did and abhorred the defeatism and war weariness of the Republic’s eastern provinces. Yet this did not prevent him from giving guarded approval to Oldenbarnevelt’s peace policy. He noted that nothing was more perilous than “agreements which ex-subjects make with their ex-sovereigns,” and recommended that “the authority of neighboring princes” be brought to bear on the case. This was a ringing endorsement of Oldenbarnevelt’s close cooperation with Pierre Jeannin, a French privy councilor and the special envoy of Henry IV, who arrived in The Hague in May 1607 in order to participate in the peace conference. In addition, Grotius proposed various ways of dealing

⁹ Eysinga, ‘Eene onuitgegeven nota van De Groot’ pp. 237–238, 245–251; Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 23–28; Borschberg, *Hugo Grotius’ Commentarius in Theses XI* pp. 53–55, 63–69, 81–89, 96–98; Alastair Duke, ‘The Elusive Netherlands: The Question of National Identity in the Early Modern Low Countries on the Eve of the Revolt’, *Bijdragen en Mededelingen betreffende de Geschiedenis der Nederlanden* 119 (2004) 10–38.

with perceived Habsburg faithlessness. He argued for absolute transparency in the treaty articles such that they include, for example, “all persons and names that might cause controversy.” It would be preferable for the Dutch Republic to negotiate from a position of strength, not weakness. In Grotius’ view,

the best remedy would be to strengthen the commonwealth with laws, policies, and internal and external resources. For just as war must be waged in order to make peace, thus peace should be of the kind that dreads war, which is not only a universal truth, but also most applicable to our case due to singular circumstances.

In principle, the Dutch Estates General could never prevent Philip III from hazarding a surprise attack in peacetime. Yet it could take some measures to reduce his chances of success. Grotius had already proposed to centralize and streamline political decision-making in the United Provinces in his early treatise *De Republica Emendanda*. He made additional recommendations in *Observationes Juridicae*. The Dutch Estates General should cooperate closely with the French and English allies, and combine “the greatest circumspection with moderate expenditures, mindful of the rule that there are more safeguards *in re* than *in persona*.”¹⁰

It is elucidating to compare *Observationes Juridicae* with the pamphlets that were printed in direct response to the Eight Months’ Armistice, either celebrating or deploring the prospect of peace negotiations. These pamphlets have received short shrift in the secondary literature. Scholars have focused instead on the pamphlet wars of the late spring and early summer of 1608, when the political debate in the Dutch Republic reached fever pitch. Yet *Observationes Juridicae* should be read in the context of the Eight Months’ Armistice, not the events of a year later. Let us examine two pamphlets from the opposite ends of the political spectrum, *Short Poetic Treatise (Cleyn Poetelick Tractaet)* and *Farmers’ Litany (Boeren-Litanië)* in order to establish Grotius’ position vis-à-vis the war and peace parties. We will find that *Observationes Juridicae* deftly straddles the middle ground.¹¹

¹⁰ Eysinga, ‘Eene onuitgegeven nota van De Groot’ pp. 238, 251–252; *Briefwisseling van Hugo Grotius* Vol. I p. 85, 95; Eysinga, ‘De wording van het twaalfjarig bestand van 9 april 1609’ pp. 67–78, 87–92, 95–100; Hugo Grotius, *De Republica Emendanda* ed. Arthur Eyffinger *et al.* *Grotiana* (New Series) 5 (1984) pp. 5–135, particularly pp. 110–113; Kaper, ‘Pamfletten over Oorlog of Vrede’ p. 25.

¹¹ *Een cleyn Poetelick Tractaet betreffende des Vreeds en Oorloghs vruchten* Knuttel 1412 (Flushing, 1607), unfoliated.

Short Poetic Treatise gave voice to the war weariness of many inhabitants of the Low Countries, particularly in the landlocked provinces, which were highly vulnerable to the marauding Spanish soldiers. It advocates an unconditional peace with Spain by contrasting wartime desolation with a peacetime horn of plenty. Its author alleged that the nymph "Morality" (*Moralisatie*) had appeared to him in a vision while being asleep one night. She allegedly took him by the hand and showed him a wood filled with "wild beasts" and a desolate valley where Saturn and Mars ruled supreme. Yet they were no match for Jupiter, who heard the prayers of a "despondent lady" (*Belgia*) and decided to reestablish peace and prosperity. Pluto and his friends were ordered out of the valley, while Apollo and his nine muses were invited back in, together with a host of other benevolent deities, Cornucopia included. *Short Poetic Treatise* is notable for its political naivete and its desire for peace-at-all-costs. Yet these views were not representative of the political elite of Holland and Zeeland, and certainly not of Grotius and Oldenbarnevelt.¹²

The sunny optimism of *Short Poetic Treatise* was worlds away from the bleak distrust of the enemy that characterized *Farmers' Litany*. The pamphlet urged caution and circumspection in the face of unprecedented political uncertainty. The prospect of peace negotiations were the topic of discussion in seven separate poems, two of which were set-piece conversations between Brabant farmers and soldiers of Prince Maurice's army. According to the pamphlet, both sets of men longed for peace: the farmers wanted to get rid of marauding troops, while the soldiers were sick and tired of dealing with wily peasants, out to defraud or even murder them. Yet neither the farmers nor the soldiers desired peace at all costs. The

Short Poetic Treatise contains a dedicatory letter written by "Gidion Morris." It is dated 1 September 1607 and addressed to the bailiff, burgomasters, eschevins and councilors of the town of Flushing.

Boeren-Litanie ofte clachte der Kempensche land-Lieden over de ellenden van dese lanck-durighe Nederlandsche Oorloghe, met de antwoorde der chrijgs-lieden op de selve Boeren-clachte, noch eenighe gedichten van bestand ende vrede, noch sommighe graf-schriften van den Admiraal Jacob van Heemskerck Knuttel 1396 (n.p., 1607), unfoliated.

Since Van Heemskerck's victory at Gibraltar only became known in Holland in the early summer of 1607, *Farmers' Litany* could not have been published before then.

¹² *Een cleyen Poetelick Tractaet* passim; Jan den Tex, *Oldenbarnevelt* trans. R.B. Powell 2 vols. (Cambridge: Cambridge UP, 1973) pp. 349–381; Kaper, 'Pamfletten over Oorlog of Vrede' p. 13.

former demanded that peace be “sincere and enduring,” while the latter still dreamt of liberating the south from the “Spanish yoke.” Indeed, the second poem shows the soldiers to be rather skeptical about the prospect of a peace conference:

Ah, if only the enemy were in good faith,
The start [of negotiations] is always pleasing, but the catch comes at
the end.

The remaining poems did not exactly celebrate the end of the war either. The pamphlet contained no less than eleven odes to Jacob van Heemskerck, the hero of Gibraltar, whose fleet had utterly destroyed the Spanish armada in April 1607. Three more poems on popish tyranny and the machinations of the Jesuits, “inciters of war,” were enough to confuse any reader. What did *Farmers’ Litany* stand for? How could its internal contradictions be explained?¹³

Farmers’ Litany testified to the great political instability in the United Provinces caused by the Eight Months’ Armistice. The Armistice treaty of March 1607 had failed to give the Dutch a greater sense of security. It remained unclear until December 1607, for instance, whether the Dutch Estates General would in fact negotiate with the Archdukes’ representatives. As far as Their High Mightinesses were concerned, there could be no peace talks without *prior* recognition of Dutch independence. The Archdukes had conceded this point by renouncing their claim to the northern Netherlands in the Armistice treaty. Understandably, Philip III was in no hurry to ratify it. Once he did, the Dutch Estates General came very close to rejecting the ratification. By signing “Yo el Rey,” Philip III gave the impression that he still considered himself the sovereign lord of all seventeen provinces of his Burgundian inheritance. His footdragging and insincerity cast a pale shadow over the negotiations that eventually started in The Hague in February 1608.¹⁴

Where should *Observationes Juridicae* be located on the political spectrum? Clearly, Grotius did not share the unqualified enthusiasm for peace negotiations exhibited by the writer of *Short Poetical Treatise*. His sentiments were more in tune with the wait-and-see attitude of

¹³ *Boeren-Litanie* passim.

¹⁴ Den Tex, *Oldenbarnevelt* trans. Powell pp. 359–422; Eysinga, ‘De wording van het twaalfjarig bestand van 9 april 1609’ pp. 108–109; Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 23–25.

the author(s) of *Farmers' Litany*. He was extremely cautious in offering advice in the last paragraph of his exposé, as he had no ready solution for the political dilemmas created by the Eight Months' Armistice. This set him apart from the hackwriters of the war party. Eysinga's observations to the contrary notwithstanding, *Observationes Juridicae* had little in common with works such as 'Short Discourse'. Van Aerssen threw all caution to the wind and boldly advised against negotiations with the Habsburg enemy, something Grotius never did. When it came to intelligently argued criticisms of the prospective peace negotiations, it was not *Observationes Juridicae* that Oldenbarnevelt had to fear, but 'Short Discourse', which offered an alternative as well as a critique. Was this the reason that Oldenbarnevelt decided to make a copy himself?¹⁵

To be sure, Van Aerssen did not ignore the shaky legal foundations of a possible peace treaty and raised the same objection as Grotius did in *Observationes Juridicae*. This did not make 'Short Discourse' a juridical exposé pure and simple. Sophisticated political and economic arguments were brought to bear on the case as well, the kind of reasoning that was largely absent from *Observationes Juridicae*. According to Van Aerssen, all pious Christians were bound to accept "a sincere, guaranteed and enduring peace" as a gift from the Almighty and "the greatest good." Conversely, "a false, insecure, and misleading peace" should be avoided as "the greatest evil." Van Aerssen cited Cicero's philosophical works on this point. While "all cautious and peaceful burghers" must share Cicero's hope that "he who is without guile may always arrange for peace," the Dutch had learnt from their ancestors that "what is safe in war, is doubtful in peace." Yet there were some "mindless people" who had been taken in by the enemy's apparent recognition of the United Provinces as a "free sovereign state." They believed that the Dutch Estates General could conclude a treaty with Philip III along the lines of the Peace of Vervins of 1598 or the Somerset House Treaty of 1604. Not so, said Van Aerssen. The diplomat pointed out that Henry IV of France and James I of England exceeded the Dutch Estates General "in authority, power

¹⁵ Kaper, 'Pamfletten over Oorlog of Vrede' pp. 18, 23–24, 26–27, 32, 35; Eysinga, 'Eene onuitgegeven nota van De Groot' pp. 235–243 and 'De wording van het twaalfjarig bestand van 9 april 1609' p. 93; Den Tex, *Oldenbarnevelt* vol. IV pp. 142–145 (*Excursus XXIV*); Barendrecht, *François van Aerssen* pp. 175–176.

and permanence,” and that Philip III had a much stronger claim to the United Provinces than to the French and English realms. Although the Archdukes had signed the article on Dutch independence in the Armistice treaty, it could not “prejudice or diminish” the title of the King of Spain.¹⁶

Van Aerssen found it hard to believe that Philip III would relinquish the “old succession,” which would fatally undermine his “pretended” universal monarchy. Only the reconquest of the United Provinces would give the King control of the North Sea and Rhine, a *sine qua non* for becoming “monarch of all Europe.” Van Aerssen warned his compatriots not to make light of Philip’s vengefulness. The Dutch revolt had cost the Spanish monarchy over “300 thousand soldiers and 200 million ducats.” For this reason alone the King would never accept a peace treaty that left him empty-handed. Then there was the issue of religion. The Habsburgs had welcomed the Inquisition to all their territories and had consistently been involved with the “quarrels of the Pope.” As defenders of the faith, they could not be expected to grant the Dutch “freedom of religion.” According to Van Aerssen, they construed the principle of *cujus regio, ejus religio* as applicable only to themselves, not to the Dutch Estates General.¹⁷

It was an article of faith for Van Aerssen that, when dealing with the Spanish monarch, neither treaties nor solemn oaths offered any guarantees for the future. Philip III regarded the Dutch as heretics and rebels, guilty of *laesae majestatis* towards God and King. He therefore must consider himself absolved from keeping any promises made to the Dutch Estates General. Van Aerssen proceeded to give a few examples of Catholic faithlessness. He pointed out that the Czech Reformer John Hus was in the possession of imperial letters of safe conduct when burned at the stake by the Council of Constance. Predictably, the Spanish juriconsult Balthasar Ayala defended the Council’s shameful acts in his *De Iure et Officiis Bellicis et Disciplina* (1582). It was Van Aerssen’s only reference to a sixteenth century juriconsult: he had a smattering of canon and civil law, but not more than that. What mattered more to him was the fact that Ayala had served as auditor of the Spanish troops in the Low Countries

¹⁶ Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. III (1604–1609) pp. 137–138; Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 25–28.

¹⁷ Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. III p. 139; Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 28–29.

and published his works “under the government of the Prince of Parma, when they thought they could bring everything under their yoke by means of force.” Van Aerssen quickly switched his burden of proof from legal principles to historical examples. There were many instances of Spanish commanders acting in bad faith on the battlefields of Germany and the Low Countries. Van Aerssen first pointed his finger at Don Luis de Requesens and Don John of Austria, who had governed the Low Countries as viceroys in the 1570s. He then elaborated on the German campaign of Don Francisco de Mendoza, Admiral of Aragon. Despite prior reassurances given to the magistrates of Emmerich, the Admiral had permitted his troops to ransack the German town in 1598. Spanish commanders had consistently failed to keep faith with their enemies, not to mention neutral places like Emmerich. Could anything else be expected of their lord and master, the King of Spain?¹⁸

Yet Van Aerssen’s opposition to the peace talks was not just grounded in his grave doubts regarding the legal validity of a treaty and the trustworthiness of Philip III, but also in his understanding of the political and military interests of the Dutch Republic. He was aware of the grave internal divisions in the United Provinces and warned against shortsighted opportunism: his compatriots had little to gain and much to lose from negotiating with an opponent who was not in earnest. The Dutch, “being kind-hearted by nature,” were prone to make too many concessions at the conference table. Their High Mightinesses could not conceal their intentions for long anyway: every decision on their side was preceded by elaborate consultations with their ‘principals’, the provincial governments of the Dutch Republic. It should not be too difficult for the Spanish to obtain the information they needed from some minor Dutch magistrate, either in the eighteen Holland voting towns or somewhere in the backwoods of Drenthe, Overijssel, and Gelderland, the poorest regions of the Republic. In the meantime, the enemy would have ample opportunity for military redeployment and fiscal retrenchment. Van Aerssen made much of the West Indian revenues of Philip III, which he considered the sinews of war. In his estimation, the Spanish Crown had the means to bring 40,000 men into the field whenever

¹⁸ Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. III pp. 139–140; Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 20–25; Fikentscher, *De Fide et Perfidia* pp. 128–129, 136–139.

necessary. It could always launch a surprise attack on the United Provinces “under pretext of some other war, be it against the Turk, or other potentates, who are our neighbors.” If the Dutch Republic did not collapse from within, there was a real possibility that Philip III’s superior fighting force would overwhelm its armies at some point.¹⁹

The Spanish military threat loomed large in Van Aerssen’s mind as he observed with growing unease the insouciance of some of his fellow regents. If “certain cautious people” had their way, there would be a massive reduction in the size of the Dutch army and just twenty-five thousand soldiers would be retained for border defense. Van Aerssen warned that “an insecure, deceptive peace” could easily leave the United Provinces without any form of allied assistance. It would also discourage his compatriots from paying the taxes that were needed to bring even a small army into the field. They were now longing for peace, primarily because they associated peace with a lighter tax burden. As it was, the individual provinces could never resist the temptation of “defrauding each other” and oftentimes recruited far fewer soldiers than they had agreed to on paper. Van Aerssen feared that the numerical strength of a peacetime army would be ten thousand men, rather than the twenty thousand men promised by the peace party. The military position of the Dutch Republic could only deteriorate in times of peace.²⁰

Meanwhile, so Van Aerssen argued, the enemy would sow the seeds of discord in the Dutch Republic, availing himself of “Jesuits, papists, [and] monks,” as well as “calumnies and corruption.” The Dutch Republic was not a commonwealth at all, but consisted of seven separate and sovereign provinces, each of which had its own peculiar form of government. The army of Prince Maurice was a necessary and binding element in the state, “the provinces, towns and members whereof have never been, and will never be, without their differences and disputes.” In the absence of an army, the provinces would share little else besides “what was promised in the contract for the common defense”—the Union of Utrecht of 1579.

¹⁹ Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. III (1604–1609) pp. 140–141; Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 32–35; Jan de Vries and Ad van der Woude, *The First Modern Economy: Success, Failure, and Perseverance of the Dutch Economy, 1500–1815* (Cambridge: Cambridge UP, 1997) pp. 99, 101.

²⁰ Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. III pp. 141–142; Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 32–35.

Van Aerssen gloomily predicted that, once the outside threat was gone, the Dutch Estates General would find it extremely difficult to reach a consensus, or, if it did, to take decisions at short notice. It was a scenario fraught with danger. As Van Aerssen noted, "Saguntum perished, while Rome deliberated." Indeed, the geostrategic and economic interests of the landlocked provinces were completely different from those of Holland and Zeeland. In the future, provinces such as Overijssel and Gelderland might well vote against any enlargement of the Dutch navy, for example, because they had little to fear from another Spanish Armada. Since trade and navigation were of no concern to them, it would be difficult to formulate a common policy on these issues, let alone to persuade them that Holland's economic interests could justifiably qualify as a *casus belli*. Even if the Dutch managed to put their own house in order, they could not rely on the guarantees of "neighboring potentates, like France, England, Denmark, and some German Electors and Princes." In Van Aerssen's reading of history, guarantors of peace treaties were oftentimes reluctant to assist the weaker party against the stronger one. He did not believe for a moment that either France or England would take on Spain alone for the sake of the United Provinces. In all probability, the guarantors would first consult among each other before they undertook any action, which might cost the Dutch "a whole campaign season and many towns." The military weakness of the United Provinces, its internal political divisions and the complete lack of shared economic interests made peace negotiations with Philip III a truly dangerous proposition according to Van Aerssen.²¹

Another concern of Van Aerssen was the detrimental effects which peace negotiations might have on the economic interests of Holland and Zeeland, which he discussed at great length. His compatriots should realize that Philip III would not grant them any more commercial privileges than were conceded to James I of England, "whose friendship he desired so much," in the Somerset House Treaty of 1604. Trade relations between the United Provinces and the Iberian Peninsula was an issue that might well split the Dutch Estates General: the landlocked provinces cared little for commercial ties with Spain and Portugal, including their respective empires. Yet the United Provinces would be utterly lost without trade and navigation, certainly if the Dutch Estates General agreed to a withdrawal from the Indies,

²¹ Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. III pp. 142–144; Kaper, 'Pamfletten over Oorlog of Vrede' pp. 32–35.

be it East or West or both. Such a scenario would be distasteful for the United Provinces, which risked a sharp decrease in “the opulence of the towns, the density of population and our sea power.” According to Van Aerssen’s calculations, Dutch trade with England and France was not very profitable, while Norway and the Baltic were of little importance to the Holland and Zeeland trading networks. (The opposite was true, in fact!) Mindful of the Habsburg trade embargoes of 1585 and 1598, Van Aerssen advised against trading with Italy and the Iberian Peninsula, even in peacetime. By anchoring in enemy ports, “our mariners, ships, and goods” presented Philip III with a ready-made opportunity to enlarge his ocean-going navy, the only thing he needed to capture “all European trade, and ruin us completely.” Van Aerssen furthermore contended that trade with Guinea and the Indies had yielded twenty million guilders in clear profits in the past decade alone. Indeed, it was the rise of Dutch power in the East Indies, where the VOC had gained a firm foothold, and the threat of a similar offensive in the West Indies, that had induced the enemy to recognize the United Provinces as a “free commonwealth” in the first place. With fine promises and the semblance of peace, Philip III would undoubtedly try to persuade the Dutch to withdraw from the Indies. The Habsburg cause could be immeasurably strengthened that way, “and ours terribly weakened”—the Spanish monarch would effectively have the United Provinces at his mercy. In Van Aerssen’s view, there was no difference between surrendering one’s weapons and surrendering one’s means to wage war, which, in the case of the United Provinces, was trade and navigation. Peace with Spain would put an end to the Dutch naval blockade of Flanders and thus benefit the trade of Antwerp, not Amsterdam. Antwerp merchants could send ships to the Iberian Peninsula without paying any import or export duties, which made it difficult for Holland merchants to compete, because of the “contributions and convoy money” paid in Spanish and Portuguese ports. Indeed, Dutch merchants might well decide to leave the United Provinces and settle in another country, presumably France or England, where they could continue their voyages to the East and West Indies. As a result, the Dutch Republic would become a “poor, ruined land, incapable of resisting its enemies.”²²

²² Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. III pp. 145–146; Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 30–31.

Van Aerssen was a typical representative of the war party and nowhere more so than in the conclusion of 'Short Discourse'. Although his argument suggested that the Dutch Republic stood little chance of survival, he suddenly concluded that a doomsday scenario was far from inevitable. It could easily be avoided, in fact, if his compatriots implemented three very simple and straightforward policy recommendations. Constitutional reform had to be their first priority. Van Aerssen advocated that "our government be put on a permanent footing," which presumably meant a strengthening of federal institutions, at the expense of the provincial Estates. He did not, however, elaborate the point and turned to foreign policy instead. The Dutch Republic should continue the war against Philip III, of course, and renegotiate its treaties with neighboring rulers, which included existing arrangements for military and financial support. (Van Aerssen must have known that Henry IV had no intention of increasing his subsidies unless he was given a greater say in the Republic's internal affairs. Did the diplomat equate constitutional reform with the King's overlordship of the United Provinces?) Finally, Van Aerssen recommended a new Dutch offensive beyond the Line, instead of a partial or complete withdrawal from the Indies. His compatriots should not just make an effort to retain the spice trade, but establish a chartered company for the New World as well, which would undoubtedly deny Philip III the rich resources of his colonial empire before long. After all, the East Indies trade had become "so praiseworthy and profitable" as to be the marvel of all. Van Aerssen noted that preparations for the establishment of a Dutch West India Company were already well advanced. He was confident that, once established, the WIC would cost the country very little. The propagators of the scheme—François Francken and Willem Usselinx, among others—predicted ample returns, in fact. A new offensive beyond the Line was indeed the best way to achieve a secure and lasting peace. Van Aerssen had great faith in the commercial acumen and naval prowess of his compatriots, who needed to wage all-out war for just a few more years in order to relieve the archenemy of "the Indies and all navigation." The Dutch Republic could then negotiate from strength and dictate terms to Philip III and the Archdukes. The result would be a peace treaty that recognized the Republic's monopoly of commerce and shipping in the extra-European world, or, at the very least, forced "the King of Spain to demolish his fortresses and withdraw his garrisons." In other words, Van

Aerssen believed the Dutch Republic should not make peace with Philip III until it completely dominated trade and shipping in the Iberian colonial empires.²³

Such dreams of conquest and colonization have traditionally been identified with the war party of Prince Maurice in the secondary literature. The lure of imperialism did indeed prove irresistible for quite a few war party stalwarts. Willem Usselinx, for one, worked ceaselessly to establish Dutch colonies on the Wild Coast of South America. He published three pamphlets in the early summer of 1608 denouncing the peace negotiations and defending his plantation schemes. Yet the imperialist strain in war party ideology should not be overestimated: the majority of broadsheets published in the summer of 1608, when the pamphlet war was at its peak, had little to say about Dutch overseas trade and territorial expansion. War party pamphleteers tended to emphasize the danger which Spanish faithlessness posed to the freedom and independence of the Dutch Republic itself. When a Zeeland minister mentioned the West Indies in his pamphlet *General Admonition (Generale Vermaninghe)*, he did so in the context of an argument about religious and political freedom, not economics. Tyrants were apt to use religion as a pretext for increasing “their own profit and reputation,” which all too often resulted in rampant repression. “A Spanish bishop”—Bartolomé de las Casas—had shown as much in *Brevísima Relación*. Even though the Amerindians accepted the Roman Catholic faith, thousands of them had been killed and fed to the hounds of the Spanish commanders, who had summarily deposed their “legitimate kings.” The minister urged his compatriots to continue the war against Philip III for the sake of true religion—the Dutch Reformed Church, that is—and maintain unity in the face of Spanish attempts to divide them. Clearly, opponents of the peace negotiations did not universally endorse the imperialist

²³ Deventer, *Gedenkstukken van Johan van Oldenbarnevelt* Vol. III (1604–1609) pp. 146–147.

The schemes of Willem Usselinx and François Francken are discussed in Catharina Ligtenberg, *Willem Usselinx* (Utrecht, 1914) pp. 19–25 and in Barendrecht, *François van Aerssen* pp. 93–95.

Van Aerssen was far too optimistic about the WIC’s profit-making capacity. When the WIC went bankrupt in 1674, it had cost the federal and provincial governments a pretty penny, without much to show for it. (The exception to this rule was, of course, Piet Heyn’s capture of the plate fleet in 1628.) Compare De Vries and Van Zanden, *The First Modern Economy* pp. 396–402, 464–466 and Kluiver, *De Souvereine en Independente Staat Zeeland* pp. 211–212, 233–237.

projects of Van Aerssen and Usselinx. As we shall see in the next section, Grotius and the VOC directors were careful to distance themselves from the war party, in fact, in order to safeguard the Company's commercial interests during the peace negotiations of the spring of 1608.²⁴

Having examined various strands of war party ideology, where does this leave Grotius and *Observationes Juridicae*? It is clear that Grotius shared some of the war party's worries—Spanish faithlessness was a recurrent theme in his early works. In *Observationes Juridicae*, he spelled out each and every legal objection that could be raised against a peace treaty with the Archdukes and Philip III. In this particular respect, Grotius' exposé went far beyond any pamphlet produced by the war party. His penetrating and exhaustive analysis does not compare with Van Aerssen's petty concerns about the legal validity of a peace treaty. Should Grotius therefore be labelled a legal expert in the service of the war party, as suggested by Eysinga? Or was his role in Dutch domestic politics a different one? Significantly, the war party pamphleteers usually discussed the legal objections to a peace treaty in the same terms as Van Aerssen. They repeated him, not Grotius, when they argued, for example, that the Archdukes were technically vassals of the King of Spain. It was 'Short Discourse', not *Observationes Juridicae*, which circulated widely in manuscript. Its contents were paraphrased or quoted by several war party broadsheets published in Holland and Zeeland in the early summer of 1608. Grotius' exposé was relatively unknown and therefore of little use to the war party. Its readership may well have been limited to the Dutch Estates General, in fact. If Oldenbarnevelt took the trouble

²⁴ Ligtenberg, Willem Usselinx pp. 19–25; Willem Klooster, *Illicit Riches: Dutch trade in the Caribbean, 1648–1795* (Leiden: KITLV Press, 1998) pp. 17–36; Kaper, 'Pamfletten over Oorlog of Vrede' pp. 20–25; *Generale Vermaninghe aenden Switseren Streckende tot harer behoudenissee ende besten tegen de beroerten ende peryckelen deses jeghenwoordighen tijts* Knuttel 1485 (Middelburg, 1608).

De Las Casas is also mentioned in pro-war pamphlets published in Holland, which portray him as a prophet of doom, announcing the destruction of the Spanish Empire. Compare *Discours of 'samensprekinghe tusschen den coning van Spaengien ende Jan Neyen, vanden vrede-handel der Vereenichde Nederlanden* Knuttel 1418 (n.p., 1608).

The writer of *General Admonition (Generale Vermaninghe)* was not the only Zeeland minister who wrote against the Peace and Truce negotiations of 1607–1609. Others went into print as well and voiced similar concerns. Compare, for example, *Philopatris, ofte Christelijck bericht hoemen Staets saecken soude moghen geluckelick uytoeren: dienende tot desen jeghenwoordighen vredehandel* Knuttel 1481 (Middelburg, 1608).

to make his own copy of ‘Short Discourse’, could he not have asked his protégé Grotius to write *Observationes Juridicae* in order to steal another march on the war party? Although Oldenbarnevelt was the political leader and *de facto* foreign minister of the United Provinces, in matters of war and peace he needed the unanimous consent of the Dutch Estates General. It was imperative for him to be familiar with every potential argument against the peace negotiations in order to outflank the war party enthusiasts in the Dutch Estates General. *Observationes Juridicae* may well have served this purpose for Oldenbarnevelt. Yet it was hardly Grotius’ sole contribution to the political debate in the United Provinces in these years. The memorandum commissioned by the VOC directors influenced the peace negotiations to a far greater extent than *Observationes Juridicae* ever did. Let us now discuss these and other petitions which the VOC directors submitted to the Dutch Estates General in 1607–1608 in order to determine the director’s political strategy, their lobbying tactics and the role played by Grotius.²⁵

4.3 *Grotius and the Peace Negotiations of February to March 1608*

If *Observationes Juridicae* was something of a damp squib, the same could not be said of the memorandum that Grotius wrote for the Gentlemen XVII in the winter of 1608. Its dazzling intellectual and political fireworks impressed the Dutch Estates General, which accepted Grotius’ recommendations as its official negotiating position. Oldenbarnevelt cited chapter and verse of Grotius’ memorandum in the peace negotiations of February and March 1608. It served to undermine Philip III’s exclusive claims to the Indies trade, which persuaded the Archdukes’ representatives to agree to a compromise, albeit with many misgivings. As a mere employee of the Estates of Holland, Grotius could not be part of the negotiating team of the Dutch Estates General. Yet he must have been extremely pleased with these developments. For the first time, Their High Mightinesses declared freedom of trade and navigation to be a Dutch national

²⁵ *Consideration vande vrede in Nederlandt gheconcipteert, anno 1608* Knuttel 1447 (n.p., 1608); *Buyr-praetjen: ofte tsamensprekinge ende discours, op den brief vanden agent Aerssens uyt Vranckrijk, aende edele moghende Heeren Staten Ghenerael geschreven* Knuttel 1525 (n.p., 1608).

interest. The rallying cry of *mare liberum* would remain an essential part of the foreign policy of the United Provinces until the French Period, in fact.

Before we examine Grotius' memorandum, let us first take a closer look at the various petitions that the VOC directors submitted to Their High Mightinesses in 1607 in order to analyze their political strategy and lobbying tactics. The directors sought to impress on the Dutch Estates General that they were ever active in attacking Portuguese colonial trade and thus undermining Philip III's capacity to wage war. In exchange, they expected the Dutch Estates General to take the Company's side in its disputes with the Dutch Admiralty Board, if only to support the war effort in the East Indies.²⁶

Jacob van Heemskerck's victory at Gibraltar in April 1607 was confirmation that the VOC had become a major military and naval power, which could fight the enemy both at home and abroad. The VOC directors had contributed ten ships and four yachts to the fleet that defeated the Spanish *armada*, including crews and victuals. With reason, Grotius portrayed the Company as the nemesis of Philip III's colonial ambitions in petitions submitted to the Dutch Estates General, although his exertions did not always benefit the VOC directors. In the spring of 1607, the Dutch Estates General received a supplication from Wolphert Harmenszoon, who criticized the VOC directors for their failure to reward him properly. In all likelihood, the petition was Grotius' handiwork. His personal papers in the Dutch National Archives contain a sheet filled with Grotius' comments on the case. Although his notes largely consist of incomplete sentences, it is nevertheless clear that Grotius meant to denounce the directors for failing

to recompense him [Wolphert Harmenszoon] in the least for the extraordinary services rendered to the Company, in particular his victory over the Portuguese fleet and the subsequent relief of Bantam [in January 1602].

²⁶ A forthcoming article by Karel Davids discusses the finances of the Dutch Admiralty Board and its troubled relationship with the VOC in the seventeenth and eighteenth centuries. Compare Karel Davids, 'The Dutch Republic: A Waterborne Power? Naval Power and the Maritime Sector in The Netherlands, c. 1590–1795' forthcoming in: *Water and State in Europe and Asia* ed. Martin Krieger and Peter Borschberg (Delhi, 2005). See also De Jong, 'Kooplieden en hun belangen in de overheidsfinanciën van de Republiek: bilaterale subsidies en leningen als "case-study" 1615–1630'.

Grotius did not make his plea in vain. The Dutch Estates General wrote to the VOC directors on 6 April 1607 and recommended that Wolphert Harmenszoon, a man of merit and “deserved recognition,” be given a better deal. This was only a minor setback for the Company. Its reputation as indefatigable opponent of Iberian tyranny received a welcome boost that summer, when Van Heemskerck’s fleet, including fourteen VOC vessels, returned home victorious and news arrived from the East Indies that Cornelis Matelief Jr. had routed a Portuguese *armada* off Malacca in August 1606. Predictably, the VOC directors capitalized on their good fortune by asking more favors from the Dutch Estates General.²⁷

Matelief’s valiant exploits in Malacca Straits provoked an equally forceful response from the VOC directors, who immediately started to prepare a relief fleet, in the expectation that the approval and support of the Dutch Estates General would be readily forthcoming. It was imperative to consolidate Matelief’s victory and regain full control of the Spice Islands, which had been lost to Spanish forces from the Philippines in March 1606. Yet they could not engage in such a massive undertaking on their own. They requested, and received, assistance from the Dutch Estates General in July 1607. Willingly or not, the Amsterdam College of the Admiralty Board lent the Company one of its warships, including cannons, ammunition, and powder and shot. This was hardly sufficient: just three months later, the VOC directors petitioned the Dutch Estates General again. They argued that a relief fleet should be armed to the teeth in order to repulse possible attacks by Spanish forces from the Philippines and the Portuguese *armada* based at Goa. The new VOC fleet would count ten warships and four yachts at the very least, with a complement of three hundred seventy soldiers and over a thousand mariners. Pieter Willemszoon Verhoef (1573–1609), the hero of Gibraltar, had already been appointed as its commander. The VOC directors had clearly done their bit: it was now up to the Dutch Estates General to make another contribution to the Company’s war effort.²⁸

²⁷ Dutch National Archives, Grotius Papers, Supplement I, fol. 294; *Resolutiën der Staten-Generaal, Viertiende Deel, 1607–1609* (RGP 131) p. 305; Enthoven, *Zeeland en de opkomst van de Republiek: Handel en Strijd in de Scheldedelta* pp. 188–192.

²⁸ *Resolutiën der Staten-Generaal, Viertiende Deel, 1607–1609* (RGP 131) p. 306.

The battle of Gibraltar could not have been won without Verhoef’s decisive leadership. Verhoef took command of the flagship *Aeolus* when a Spanish broadside

The VOC directors were smart enough to present their case to the Estates of Holland first. They requested “several ships, ordnance, powder and shot,” and demanded an exemption from two kinds of duties, convoy money (*inkoomende convoyen*) and the federal tax on booty (*'s lands gerechtigheid*). The Estates considered the Company’s request in the early morning hours of 8 October 1607. A decision was reached right away. Although Their High Mightinesses did not seem inclined to grant the VOC immunity from taxes, the Estates promised to put in a good word for the Company if the directors submitted a petition that asked for

fifty thousand pounds of gunpowder, a good number of ships and ten half cannons, lent by the Colleges of the Admiralty Board (if they have these), and four navy vessels for next spring, three from Holland and one from Zeeland, fully rigged and equipped as required, with the exception of crews and victuals, which will be at the Company’s charge.

The directors were extremely pleased with this result and slipped a note to their lawyers at the Court of Holland (*Hof van Holland*), Grotius being one of them. They explained that, “thanks to the recommendations of the Advocate [i.e. Oldenbarnevelt],” the Estates of Holland had decided to provide the Company with “several half cannons” right then and there, and another “four or six ships” in the spring. Indeed, the Estates had promised to support the Company’s cause in the meeting of the Dutch Estates General that afternoon. The directors were eager to return to their respective hometowns and inform the local VOC Chambers about these important developments. Yet this should not stop their lawyers from drawing up a petition as soon as possible. The seven provinces that constituted the Dutch Republic had sent strong delegations to The Hague, in the expectation that the Archdukes’ envoys would return shortly with

killed Van Heemskerck very early in the battle. The VOC directors must have selected Verhoef solely on the basis of his reputation as a naval commander and war hero—he had never been in the East Indies before.

Verhoef’s fleet consisted of ten heavily armed warships and four yachts, which sailed on 22 December 1607. The VOC directors had already started planning for the Company’s fourth voyage as early as May 1606, right after the departure of Admiral Van Caerden in April 1606. Verhoef’s fleet was supposed to have sailed much earlier. Yet the VOC directors only succeeded in sending three advice ships to the East Indies in the spring of 1607, one of which sank in Zeeland waters. Compare *De Reis van de Vloot van Pieter Willemisz Verhoef naar Azië, 1607–1612* ed. M.E. Opstall 2 vols. (The Hague: Martinus Nijhoff, 1972) Vol. I pp. 7–12, 26–35.

Philip III's ratification of the Eight Months' Armistice. Since the Dutch Estates General was at full strength, its members could easily be persuaded to grant the Company's request, certainly when "the bloody battle of Malacca was still fresh in their minds." Grotius did not need any further prompting. He spent his lunch hour drawing up a short, two-page supplication, which was submitted to the Dutch Estates General that same afternoon, probably by two VOC directors, Reynier Pauw from Amsterdam and Jan Jacobszoon Mus from Rotterdam.²⁹

Grotius started off his petition by reminding the Dutch Estates General of the aggressive policies which the Company had adopted at its behest. In the past, the VOC directors had been admonished several times to wage an "offensive war" in the East Indies. Whenever they were concerned about the "high costs and great burdens" of war, they had been reassured by the Estates General with "express promises that they would be maintained by Your High Mightinesses and shown all favor and good will." And yet little of this aid had materialized; "the plight of our common cause" had apparently not warranted it. The VOC directors had persevered in their resolve nonetheless and increased their efforts over time. The Dutch Republic was the main beneficiary, of course. It enjoyed higher revenues from convoy money and the tax on booty, not to mention a soaring reputation in the East Indies, all because of the splendid victories of VOC commanders. The same could not be said of the VOC directors, who were weighed down by "the inexpressible costs and burdens of the Company." When the directors instructed Matelief Jr. to attack enemy strongholds in the East Indies, they could not have known that his successes would provoke "not just the Portuguese, but all the armed forces of the King of Spain." Indeed, Philip III had no real enemies left apart from the Company. Why else would

²⁹ *Register van Holland en Westwiesland (1607–1609)* p. 318; Dutch National Archives, Grotius Papers, Supplement I fol. 329r; *Resolutiën der Staten-Generaal, Viertiende Deel, 1607–1609* (RGP 131) pp. 10, 307; Femme S. Gaastra, *De Geschiedenis van de VOC* (7th edition, Zutphen: Walburg Pers, 2002) p. 30.

Not all VOC directors went home after the vote of the Estates of Holland. The Amsterdam regent Reynier Pauw and his Rotterdam colleague Mus remained in The Hague because they doubled as Holland's delegates in the Dutch Estates General. Each province had one vote in the Dutch Estates General, but could be represented by more than one delegate. Provinces tended to send large delegations to The Hague in times of military or political crisis.

a “Spanish armada” have appeared in Malacca Straits and engaged in a pitched battle with the fleet of Matelief? The VOC directors had therefore concluded that the task at hand exceeded their feeble abilities and private means. They trusted, however, that

Your High Mightinesses, who undoubtedly care as much for the conservation of the Company as the King of Spain for its destruction, will recognize the importance of the matter and act upon your promises at this present juncture.

Confident of government support, the VOC directors had already decided to send eight big ships and four smaller vessels to the East Indies in November, “the great losses suffered notwithstanding.” They entreated the Dutch Estates General to provide ordnance for the fleet of Pieter Willemszoon Verhoef. In addition, they should like to have six warships in the spring, fully rigged and equipped, “to better second the same and attack the enemy unexpectedly with yet another fleet.” Grotius made it appear as if nothing else would do: with the fate of the entire Indies trade hanging in the balance, it was imperative to destroy Habsburg naval power and recapture the Moluccas.³⁰

The Dutch Estates General gave the VOC petition its first reading in the afternoon of 8 October 1607, and replied the following day. The Company was to receive ten cannons, including ammunition, from the Admiralty Colleges of Amsterdam, Rotterdam, Middelburg and Hoorn and Enkhuizen. Their High Mightinesses had no difficulty justifying their decision, citing the “services, advantages and profits, which, thanks to the Company, the Generality has already enjoyed and may expect for the future, all to the detriment of the King of Spain.” The Company was showered with favors throughout the month of October, in fact. In reply to a second

Philip III's second ratification of the Eight Months' Armistice arrived in The Hague on 25 October 1607. Once again, its wording did not correspond with Oldenbarnevelt's formula. The document was written in Spanish and on paper, not parchment. Most importantly, the King had signed it ‘Yo el Rey,’ instead of ‘Philip III’. The signature suggested that the King of Spain still regarded the Dutch as his rebel subjects, not an independent, free people, as the first article of the armistice agreement would have it. The previous accreditation, which was unanimously rejected by the Dutch Estates General on 24 July 1607, had suffered from similar anomalies and inconsistencies. Compare Jan den Tex, *Oldenbarnevelt* vol. II: *Oorlog, 1588–1609* pp. 579–582, 586–591.

³⁰ Dutch National Archives, Grotius Papers, Supplement I fol. 422r–v.

petition of the VOC directors, once again drafted by Grotius, the Dutch Estates General declared that, in case of loss or damage, the Admiralty Board would be responsible for replacing the cannons that it had already lent to the Company or would lend in the future. When the directors requested six hundred hand-grenades and six gun carriages, the Dutch Estates General wrote to the overseers of the municipal arms depots at Utrecht and Delft, who were told to accommodate the Company in every possible way. Oldenbarnevelt was indulgent towards the VOC for a reason. He wanted to show the war party that he intended to negotiate with the Archdukes' representatives about peace, not surrender.³¹

Despite the inadequacy of Philip III's ratification of the Eight Months' Armistice, the Dutch Estates General continued to back Oldenbarnevelt's peace policies. On 20 December 1607, its seventy delegates voted overwhelmingly in favor of his proposal to extend the armistice and negotiate a final settlement with the Archdukes' representatives. Two days later, he persuaded them to approve his 'Act of Association' (*Acte van Verbintnisse*). It obliged each province to break off the peace talks if these should compromise the sovereignty and independence of the Dutch Republic. The passing of the act was a signal defeat for the war party: Prince Maurice and his Zeeland supporters had clearly failed in their bid to keep the Dutch negotiating team on a tight leash. Oldenbarnevelt was equally successful in enlisting the support of Henry IV of France. A new offensive and defensive alliance between the monarch and the Dutch Republic was signed on 23 January 1608. Seemingly a concession to the war party, which considered the United Provinces vulnerable to Spanish attack because of a lack of allies, this guarantee treaty did not amount to much according to François van Aerssen. The intrepid diplomat lectured Oldenbarnevelt in his letters from Paris, and complained that French subsidies were not mentioned in the new treaty at all, even though the Dutch army was in desperate need of such assistance. Yet there was little he could do about it. The tide had clearly turned against Prince Maurice and his allies when the peace negotiations started in earnest on 1 February 1608. Who could prevent the peace party from selling out to the enemy? As Van Meteren noted in his

³¹ Dutch National Archives, Grotius Papers, Supplement I, fol. 426; *Resolutiën der Staten-Generaal, Vertiende Deel, 1607–1609* (RGP 131) p. 307.

History of the Low Countries War, quite a few provinces were willing to sacrifice the Indies trade, for example, in order to gain official recognition of their freedom and independence. The consequences for the VOC were potentially disastrous. How did the VOC directors react?³²

The Gentlemen XVII were sensible enough to keep the war party at arm's length and studiously refrained from denouncing the peace negotiations as such. The Company could not presume to decide matters of war and peace for Their High Mightinesses. Neither did the VOC directors underestimate the threat which ill-considered concessions to the enemy might pose to the VOC's future. As Grotius put it, "some hope for peace or truce with our country was extended by the Spaniards, but with an unjust condition demanded by them, namely, that we refrain from commerce with India." The response of the Gentlemen XVII was a tried and tested one: they held several emergency meetings in The Hague and lobbied the Dutch Estates General incessantly. The memorandum that they commissioned from Grotius was part of their survival strategy. It proved a political masterstroke, which turned the scales decidedly in favor of the Company.³³

The peace negotiations of February to March 1608 did not take the Gentlemen XVII entirely by surprise. They had already discussed this possibility at their half-yearly meeting in Amsterdam in October 1607. In their view, it was imperative to present the Dutch Estates General with a "petition (pleading) for the salvation and advancement of the East Indies trade." The VOC directors, in particular those who served as "deputies in The Hague," must have contacted Grotius soon afterwards. Adriaen ten Haeff, a Zeeland VOC director, served as a liaison between Grotius and the Gentlemen XVII. As a representative of the Estates of Zeeland, he attended the meetings of the Dutch Estates General in The Hague in September and October 1607. He sent Grotius various materials on 15 November, necessary "to complete the work that you have begun." Ten Haeff apologized for his hasty departure from The Hague: he had been obliged to return to Middelburg in order to report back to the Estates

³² Tex, *Oldenbarnevelt* vol. II: *Oorlog, 1588–1609* pp. 579–582, 586–592, 596–599; Barendrecht, *François van Aerssen* pp. 22–23, 190–202, 263–261; Van Meteren, *Historie der Nederlandscher ende haerder Naburen Oorlogen* fol. 590v, 585v.

³³ Van Meteren, *Historie der Nederlandscher ende haerder Naburen Oorlogen* fol. 590v, 585v; Grotius, *The Free Sea* ed. Armitage p. 77.

of Zeeland. Yet he did not wish to “delay the matter any further” and enclosed some “points worthy of consideration” with regard to the East Indies trade. Grotius was free to insert them in his memorandum “wherever they may be of use.” Ten Haeff conceded that “several questions” might be raised about the letter’s enclosures, but believed that it was too early to resolve these. Indeed, certain issues were so sensitive that “I would not want to put them into writing.” For this reason, Ten Haeff was eager to have another face-to-face meeting with Grotius. He intimated that he would return to The Hague very soon in order to attend the December meeting of the Dutch Estates General. The latest news concerning the peace negotiations had reached him from Brussels and the Iberian Peninsula, “arriving with the ships that call here daily.” Apparently, there was a great desire for peace among the subjects of Philip III, “both great and small,” while the “common people” had been led to believe that a treaty was certain and inevitable. Ten Haeff concluded his letter by expressing his doubts about the King’s intentions. The time was near that “the Spanish would have to show their true colors.” He could only hope that “God Almighty will grant us an honest, Christian and secure outcome.”³⁴

Unfortunately, Grotius’ reply to the Middelburg merchant is no longer extant, nor, for that matter, are the enclosures of Ten Haeff’s letter. It nevertheless provides a fascinating insight into Grotius’ working relationship with the VOC directors. Grotius must have relied heavily on the advice of Ten Haeff, and probably of other Company directors as well, in drafting his memorandum for the Gentlemen

³⁴ Dutch National Archives, VOC 99, unfoliated (resolution of 1 October 1607, agenda item #16); Royal Library, The Hague, *Gedrukte Notulen van de Staten van Zeeland, 1607* pp. 215 and 221; Jan den Tex, *Oldenbarnevelt* vol. II: *Oorlog, 1588–1609* pp. 588, 591; *Resolutiën der Staten-Generaal, Vierde Deel, 1607–1609* (RGP 131) pp. 87–88, 90; *Briefwisseling van Hugo Grotius* Vol. XVII p. 37.

The enclosures of Ten Haeff’s letter have not survived. Unfortunately, the seventeenth volume of the *Briefwisseling van Hugo Grotius* is a bit misleading on this point. The printed version of Ten Haeff’s letter includes an appendix listing eleven letters from the King of Spain and the Viceroy at Goa, all dated between 28 November 1606 and 13 February 1607. Yet the itemized list, taken from the Grotius Papers at the Dutch National Archives, is in no way related to the letter of Ten Haeff. As E.N. Kleffens points out, Grotius could not have received this list, along with the copies of the actual letters, before September 1608, when Cornelis Matelief Jr. arrived back in Holland and delivered the originals to the Company directors. (The letters had not been intercepted by Matelief, but by another VOC commander, Paulus van Caerden. When the latter arrived in Bantam on 9 January 1608, he passed them on to Matelief Jr., who set sail for Holland three weeks later.)

XVII. The two extant drafts of the memorandum, along with Grotius' notes and a postscript, testify to a lively exchange of ideas with the directors, which served to reinforce the ideological and political partnership that had been in place since the days of *De Jure Praedae*. Ten Haeff and Grotius undoubtedly continued their discussions into the month of December, when Ten Haeff was back in The Hague as a member of the Dutch Estates General. Grotius must have completed the memorandum the following month. The Amsterdam directors decided on 14 January 1608 to write to their colleagues elsewhere and recommend that they "bring the proposed Company petition to the attention of their magistrates." It was imperative that the municipal governments of Holland and Zeeland instruct their representatives in The Hague accordingly, and impress upon them the need to "defend the East Indian navigation." The powerful Amsterdam director Reynier Pauw wrote to all the VOC chambers on 26 January 1608 in order to call an extraordinary meeting of the Gentlemen XVII. The Zeeland directors received Pauw's letter on 4 February and appointed Ten Haeff as their representative just three days later. The Amsterdam directors deputed Pieter Dirkszoon Hasselaer, Francois van Hoven and, yes, Arent ten Grootenhuys, the elder brother of Grotius' friend, Jan ten Grootenhuys. The Gentlemen XVII assembled in The Hague in early February. They remained in session for quite some time. Their aim was to monitor the progress of the peace conference and devise ways to blunt its impact on the Company. In all likelihood, Grotius' memorandum was at the top of their agenda.³⁵

In all probability, Grotius received the itemized list, along with copies of the intercepted correspondence, sometime after 4 November 1608, the day that the Zeeland VOC directors commissioned the publication of *Mare Liberum*. Grotius translated two of the letters into Latin and published them in the appendix of *Mare Liberum*. Compare E.N. Kleffens, "Over zes brieven uit het bezit van Hugo de Groot," *Mededelingen der Koninklijke Nederlandse Akademie van Wetenschappen, Afdeling Letterkunde* New Series 23, no. 16 (1960) pp. 449–490, particularly pp. 449–465, 479–487; *Briefwisseling van Hugo Grotius* Vol. I pp. 128–129; Grotius, *The Free Sea* ed. Armitage pp. 61–62.

³⁵ Dutch National Archives, Grotius Papers, Supplement I, fol. 294–299, 380, 405–413, 415–419, VOC 7242 (minutes of the Zeeland Chamber, 1604–1615) fol. 105r–v, VOC 226, unfoliated (minutes of the Amsterdam Chamber, 14 and 28 Jan. 1608); Van Meteren, *Historie der Nederlandscher ende haerder Naburen Oorlogen* fol. 585v:

Unfortunately, the minutes of the meetings of the Gentlemen XVII are no longer extant for the winter and spring of 1608. The Dutch National Archives possesses two minute books that cover the Company's early years: VOC 99, which starts in April 1602 and ends in October 1607, and VOC 100, which starts in July 1608 and ends in August 1623.

The memorandum has come down to us in the form of two drafts, both in Grotius' own hand, which form part of the Grotius Papers at the Dutch National Archives. The memorandum considers three fundamentally different options for the East Indies trade in case the Dutch Estates General should make peace with Philip III. The first draft is just four folios long and heavily annotated. Grotius deleted parts of the main body of the text, while inserting new text blocs in the margins. The second draft is double the size of its foregoer and has the feel of a presentation copy, although it still contains marginalia. Grotius inserted a new (and unnumbered) sheet between fol. 409 and 410, for instance, just to avoid any further scribbling in the left margin of fol. 410r. Grotius was a compulsive reviser, whose second draft was certainly not the finished product. Which purpose was served by these revisions?³⁶

In a very real sense, the memorandum was a joint project of Grotius and an inner circle of VOC directors. A lengthy postscript, written in a scribal hand, accompanied the second draft of the memorandum. It emphasized the importance of the Indies trade for the Dutch Republic, and even provided a list of the Asian goods (spices, cotton, silk, etc.) which the Portuguese had profitably marketed in Europe and the Ottoman Empire. It was the postscript's unstated assumption that the Dutch might imitate and outperform their Iberian enemy on this count. Grotius derived this information from the VOC directors, of course. He revised his memorandum in order to address their practical concerns. Yet the memorandum was not intended for Company consumption alone. At the directors' request, Grotius constructed his case with an eye to swaying the members of the Dutch Estates General as well. The gamble paid off, spectacularly so. When Oldenbarnevelt negotiated with the Archdukes' representatives, he

³⁶ Dutch National Archives, Grotius Papers, Supplement I, fol. 295–299 (first draft) and fol. 405–413 (second draft).

The second draft of the memorandum contains four inserted text blocs, which are found in the left margins of fol. 410r, 410v and 411r, and on a separate sheet of paper inserted between fol. 409 and 410. There is a close connection between the marginalia on fol. 410r and the inserted sheet of paper. When he revised the memorandum, Grotius decided to elaborate on the economic consequences of a Dutch withdrawal from the East Indies and inserted a new text bloc in the left margin of fol. 410r. At some point, he must have deemed this new text bloc insufficient. He realized, however, that he could not add any more text in the left margin of fol. 410, and inserted a new sheet. On the basis of this evidence, I conclude that Grotius must have revised the second draft at least two times.

flatly rejected their demands for a Dutch withdrawal from the East Indies, citing legal, political and economic arguments that closely resembled those in Grotius' memorandum.³⁷

Grotius started off his memorandum with two premises: first, that the East Indies trade would prove to be "one of the most intractable issues" in the peace negotiations, and, secondly, that the Dutch Estates General would do its utmost to "make such a treaty as would content the Company." The Dutch Estates General could hardly do anything else, considering the fact that it had always encouraged the VOC directors to send warships and soldiers to the East, promising "all favor and assistance." Their High Mightinesses realized that the East Indies trade had been a boon to the country. The VOC and its precursors, the regional trading companies, had paid import and export duties to the Dutch Admiralty Board for the better part of a decade, and they had captured some "very rich prizes." Following the Habsburg trade embargoes of 1598 and 1599, the Dutch voyages to the East Indies had become indispensable to the "employment and livelihood of so many thousand inhabitants of these countries." Since VOC shareholders happened to be "the most loyal and distinguished subjects of Their High Mightinesses," the latter were bound to negotiate a peace treaty that would benefit the Company, not harm it, and ensure its future profits. There were sound military and political reasons for doing so as well. The victories of VOC commanders had weakened Habsburg power and increased the honor and standing of the United Provinces "in the farthest corners of the world." Indeed, the Dutch Estates General were under an obligation to honor the "friendships and alliances" that had been contracted in its name with Asian "princes and nations." The Company had offered them military assistance, sending "special letters," signed by Prince Maurice, which had induced quite a few of them to take up arms against the Portuguese. The VOC directors could not desert their new allies without incurring "great infamy and disrepute." Several of these indigenous trading partners had been grievously oppressed by Habsburg forces, or destroyed by fire and sword, for "showing favor and goodwill towards the Netherlanders." Grotius concluded that the peace negotiations were

³⁷ Dutch National Archives, Grotius Papers, Supplement I, fol. 415-419 and VOC 226, unfoliated (minutes of the Amsterdam Chamber, 14 Jan. 1608).

the most important issue ever to be considered by the VOC directors. He urged the Gentlemen XVII to “deliberate at length about the conditions that might best benefit the Company and could be submitted to Their High Mightinesses with the greatest chance of success.” To start the discussion, he outlined three alternatives in his memorandum:

- 1) after the cessation of hostilities, the Dutch and Portuguese would be free to trade anywhere in the East Indies;
- 2) the Company would agree to a complete withdrawal and wrap up its business in a few years;
- 3) there would be peace in Europe, but war beyond the Line (i.e. the Tropic of Cancer).

Grotius did not leave it at that. These three choices were fleshed out in the main body of the text, where Grotius weighed their pros and cons, and considered the likelihood of their implementation.³⁸

Grotius preferred the first option as the best possible outcome of the peace negotiations, although he doubted that the King of Spain would agree to it. Ideally, the subjects of both Philip III and the Dutch Estates General should be free to navigate between the Cape of Good Hope and Magellan Straits, and trade “with all princes, nations, towns and places that, to date, are not in the power or under the authority of either party.” Both the Dutch and Portuguese would keep the places occupied before the cessation of hostilities. Yet they could no longer molest indigenous peoples, or each other, thereafter. Grotius also proposed to regulate access to each other’s harbors and the marketing of Asian wares in Europe and the Middle East. The Somerset House Treaty of 1604 stipulated, for example, that a certain number of English ships could call on Iberian ports each year to take in fresh water and victuals, and granted Spanish ships the same privileges with regard to English harbors. Grotius believed that a comparable arrangement was possible between the VOC and the *Estado da India*. As for the distribution of colonial goods, the Company should reach an understanding with the Portuguese Crown about an equal division of markets. The merchants

³⁸ Ibidem fol. 405r–406r.

In all probability, Grotius was the author of the “special letters” sent to the East. His papers contain draft letters, all in his own hand, that were addressed to the Sultans of Tidore and Ternate, the “Signories” of Banda and Ambon, the Queen of Patani, and the King of Siau, respectively. Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 344–345, 359–362, 364–366.

who held the European Contract—they distributed pepper in Europe on behalf of the Portuguese Crown—could perhaps be persuaded to limit themselves to the Mediterranean basin and Middle East. As a *quid pro quo*, the VOC should undertake to sell its spices solely in Northern Europe, but Grotius realized that it might be difficult to implement such an agreement. It would be impossible to prevent customers from reselling their purchases in areas that were part of the other party's distribution network. Grotius nevertheless considered the first alternative "most advantageous for both country and Company." It was much to be preferred in comparison with the other two options.³⁹

The first alternative could take different forms. Some of these were less favorable to the Company than the dream scenario outlined above. As Grotius realized, a peace treaty might force the VOC to surrender its territorial conquests and limit its commercial activities to the Asian towns and ports where it had traded before. Nor was it inconceivable that the Company would be subjected to purchasing restrictions, which meant that only a small quantity of goods could be imported from the East Indies each year, or that trade would be confined to certain well-defined geographical areas such as the Moluccas. Another possibility was the peace proposal that Philip III had allegedly inherited from his father. It was rumored that Philip II, had he not died in 1598, would have given his rebel subjects permission to trade anywhere in the East Indies, provided they landed their return cargoes in Portugal. Grotius admitted that all these different versions suffered from "marked iniquities," but deemed it unnecessary to elaborate these, probably because the Gentlemen XVII were already well informed on this point.⁴⁰

Significantly, Grotius' discussion of a whole range of possible arrangements for the Indies trade is only to be found in the second draft of his memorandum. It were undoubtedly the Gentlemen XVII who asked him to suggest some trading and marketing privileges that might be written into a peace treaty. Since Philip III would never agree to total freedom of trade and navigation—as Grotius admitted himself—the VOC directors needed a few fallback scenarios from him. At the same time, they continued to be his main source of information on the

³⁹ Dutch National Archives, Grotius Papers, Supplement I, fol. 406v–407r.

⁴⁰ *Ibidem* fol. 407r.

Indies trade, of course. Without their input, he could never have arrived at a proposal to divide the European and Mediterranean markets between the VOC and the merchants who held the European Contract. There is another reason why the Gentlemen XVII should be regarded as the instigators of the changes made in the memorandum. They were not exactly ardent free traders themselves. As we have seen in chapter three, they consistently opposed the establishment of a French East India Company. As early as 1606, they sent letters to their Asian allies—drafted by Grotius, in fact—to persuade the latter to trade exclusively with the VOC. Clearly, the Gentlemen XVII were interested in obtaining trading privileges from Philip III, not the total freedom of trade and navigation that Grotius had embraced in the first draft of his memorandum, which was neither practical nor desirable.⁴¹

Grotius added new materials in other places as well. A good example is the paragraph that justified “free, peaceful trade” on the basis of natural rights and natural law theory. Grotius did not simply copy the text from the first draft, but expanded it. For all their practical concerns, the Gentlemen XVII must have endorsed his elaborate explication of *ius gentium*, which was essential to get Oldenbarnevelt on their side, not to mention the Dutch Estates General. They realized that it would be an uphill struggle to bring the Dutch Estates General around to their point of view, Grotius’ supreme self-confidence notwithstanding. After all, the Dutch Republic counted quite a few landlocked provinces which “cared most for peace and least for trade,” as Grotius noted in the memorandum. In addition, Their High Mightinesses had to take the views of powerful allies like the French and English monarchs into account. A rebel state that enjoyed little legitimacy in international politics could not afford to make too many demands at the conference table. If the Dutch Estates General insisted on retaining the East Indies trade, it would have to come up with some very good arguments, not just to sway the Archdukes’ representatives, but to win over the French and English ambassadors. The latter already accepted that the Dutch Estates General should have its way on issues of religion and sovereignty. They realized that

⁴¹ Ibidem fol. 296r–v, 344–345, 359–362, 364–366, 406r–407v; De Vries and Van der Woude, *First Modern Economy* pp. 388–389; Sanjay Subrahmanyam, *The Portuguese Empire in Asia, 1500–1700* (London: Longman, 1993) pp. 112–114; Barendrecht, *François van Aerssen* pp. 88–96.

freedom of worship for Dutch Catholics was out of the question and that there could be no peace with Spain without full independence for the United Provinces. Yet they might well object to a third non-negotiable demand, certainly if Oldenbarnevelt made his case for the VOC purely on the basis of the country's economic self-interests. Intransigence on this point could backfire quite easily: the Dutch Republic was incapable of making peace with Spain, or renewing hostilities, without the political support of the French and English monarchs. It was hard to see how Henry IV and James I might be persuaded to back Their High Mightinesses if they broke off peace negotiations on an issue that seemed of minor importance and entirely self-serving. Unless, of course, Oldenbarnevelt managed to turn the Indies trade into a *cause célèbre*, based on the premise that freedom of trade and navigation would be lost if the VOC withdrew from Asia. Grotius' memorandum provided the VOC directors and Oldenbarnevelt with precisely such an argument.⁴²

Grotius declared that "all nations in all ages" had considered trade and navigation to be open to each and everyone, "just as nature teaches us." Nothing could diminish this freedom of trade and navigation, neither the right of possession nor the right of prescription. Temporary possession of the Indies trade, such as enjoyed by the Spanish and Portuguese, could never become full ownership in the state of nature. The right of prescription—a right acquired by the mere lapsing of time—was unknown to the law of nations (*jus gentium*). Instead, freedom of trade and navigation should be understood as an integral part of the "absolute power" (*mera facultatis*) of the individual, who was the sovereign lord and owner (*dominus*) of himself or herself in the state of nature. However long Spanish and Portuguese traders had been active in monsoon Asia, other European merchants were entitled to exercise the same rights in the present or future. Portuguese "usurpation" had in fact been actively opposed by several nations and publicly denounced by the whole world.

⁴² Dutch National Archives, Grotius Papers, Supplement I, fol. 408v; Van Meteren, *Historie der Nederlandscher ende haerder Naburen Oorlogen* fol. 590v; Den Tex, *Oldenbarnevelt* Vol. II: *Oorlog, 1588–1609* pp. 571–579, 588–589, 596–599, 603–609, 669; Barendrecht, *François van Aerssen* pp. 188–202; J.C. Grayson, 'From Protectorate to Partnership: Anglo-Dutch relations, 1598–1625' Unpublished D. Phil thesis (London, 1978) pp. 94–118; *Les Negotiations de monsieur le President Jeannin* 4 vols. (Amsterdam, 1695) vol. II pp. 110–111.

Spanish theologians and jurists explicitly denied that anybody could be banned from the Indies trade on the basis of the “passing of time and continued occupation,” let alone a “pretended papal donation,” such as Pope Julius II’s confirmation in 1506 of the famous Treaty of Tordesillas. Even canon lawyers admitted that the “papal donation” lacked any “legal ground or force.” After all, a treaty that divided up the extra-European world between the Spanish and Portuguese was completely unacceptable to “other princes and peoples,” and could never be binding for them. This was certainly true for the United Provinces, which had been recognized as a sovereign state even by its enemies. It was notorious that the Asian trading partners of the VOC were equally free and independent. These “princes and nations” had never been subject to the Spanish and Portuguese monarchs. In this respect, the East Indies were quite different from the Americas, “which are under the authority of the King of Spain.” It was by virtue of his sovereign powers that Philip III could regulate trade and commerce in the Americas. The same did not apply to the East Indies, where the Portuguese held very few territories. Grotius emphasized again that freedom of trade and navigation was a natural right, proper to all free peoples. Since his compatriots had not acquired it as spoils of war, it should not be taken away from them in times of peace. Nor was the King of Spain and Portugal incable of making concessions to an enemy who did not share his Catholic faith. He had granted trading privileges to “many heathens and Muslims” in the East Indies, including “Gujarati, Arab and Chinese merchants.” In theory, he could make similar arrangements with the Dutch, yet continue to exclude Catholic princes from the Indies trade—papal decrees were binding on the latter, after all. Yet Grotius admitted that, in practice, Philip III seemed determined to curtail freedom of trade and navigation as much as he possibly could.⁴³

⁴³ Dutch National Archives, Grotius Papers, Supplement I, fol. 407r–408r.

This particular paragraph of Grotius’ memorandum neatly summarizes the natural law and natural rights theories of *Mare Liberum* and *De Jure Praedae*. Compare Grotius, *The Free Sea* ed. Armitage pp. 10–60; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 216–282.

Much has already been written about religious justifications of Portuguese conquest and colonization in the East Indies. Compare Kleffens, ‘Over zes brieven uit het bezit van Hugo de Groot,’ pp. 469–470; Sanjay Subrahmanyam, *The Portuguese Empire in Asia, 1500–1700* (London: Longman, 1993) pp. 49–51, 125.

Philip III had good reason to dread European competition in the East Indies trade. Grotius noted that his ancestors had achieved greatness solely by excluding all European nations from both the West and the East Indies. It was unlikely that the King would break with this hallowed tradition, if only because he had obligations to the Portuguese Crown. How could he concede to the Dutch Estates General what he had withheld from Henry IV of France and James I of England in the treaties of Vervins and Somerset House? According to the last will and testament of Philip II, the *Infanta* Isabella was required to arrest and execute any Flemish subject of hers who dared to trade with the Indies, on pain of forfeiting the Spanish Netherlands. Philip III was obviously reluctant to make special arrangements for the Dutch, which might set a dangerous precedent. It would leave him with few pretexts for excluding other European nations from the East Indies. Indeed, even if these nations showed no interest, which was hard to believe, the VOC should be able to sweep the seas clean and destroy Habsburg naval power just by itself, which would reduce the Portuguese to beggary. Grotius was careful to emphasize this point: it might well prevent Philip III from making peace with the Dutch Estates General. If the monarch signed a treaty regardless, there was a very real possibility that he would try to subvert its clauses on trade and navigation, either openly or covertly. He might well intimidate Asian princes and peoples by means of systematic attacks on the Company's indigenous trading partners. Even if the latter were included in a peace treaty, Philip III could still assault them under the pretext of "some injury or another." In that case, it was hard to imagine the Dutch Estates General declaring war on Spain. The landlocked provinces in particular "cared most for peace and least for war." Nor did Grotius hide from the VOC directors the unpleasant truth that the King of France had done absolutely nothing to revenge the Spanish raid of the Huguenot colony in Florida in 1565. Grotius concluded that his personal preference, freedom of trade and navigation for both the Dutch and the Portuguese, was perilously close to the third alternative, the continuation of the war beyond the Line.⁴⁴

⁴⁴ Dutch National Archives, Grotius Papers, Supplement I, fol. 408r-v; Boyajian, *Portuguese Trade in Asia under the Habsburgs* pp. 8-28, 86-105, 185-20.

Philip II's decision to grant the Low Countries to his daughter Isabella infuriated the author of *Copy of a Certain Letter*, who published the terms of the donation

Grotius considered the second alternative, a Dutch withdrawal from the East Indies, the least palatable of the three options open to the Company. Such a withdrawal could be conceived in various different ways. Grotius only sketched its bare outlines in the memorandum's first draft, but drew up some remarkably detailed plans in the second draft, probably at the instigation of the VOC directors. He distinguished between (1) an explicit cession of the Indies trade by the United Provinces alone, (2) a revocation of the VOC charter by Their High Mightinesses, and (3) a decision taken by the VOC directors to dissolve the Company. In principle, the Dutch Estates General could sacrifice the Indies trade for the sake of a comprehensive peace settlement with Spain. As Grotius pointed out, the VOC directors would have no grounds for complaint if Dutch and Spanish negotiators reached an agreement whereby the Company should trade "freely and peacefully" in Asia for the duration of its charter and then wrap up its business. The only unknown in this scenario was the reaction of Asian princes. The most militant rulers would be vehemently opposed to such an agreement and break off all relations with the VOC in order to continue their struggle against the Portuguese. It was the task of the Gentlemen XVII to alert the Dutch Estates General to these dangers. A peace treaty that precluded a renewal of the Company charter could discourage Asian princes from trading with the VOC and would therefore be grossly "unprofitable and unfair." There was another consideration as well. If the Dutch Estates General relinquished the Indies trade, it would be at a disadvantage vis-à-vis Henry IV of France and James I of England, who had made peace with the King of Spain without formally disowning their subjects' trade and navigation beyond the Line. Their High Mightinesses could order a withdrawal from the East Indies at their own initiative, of course. Yet this would be tantamount

and vehemently criticized its terms. According to article #8 of the donation, the Archdukes would lose their inheritance if they should leave subjects unpunished who sent ships to the Indies or tried to trade there.

The treaties of Vervins (1598) and Somerset House (1604) did not mention the East and West Indies at all. In the case of the Somerset House treaty, this 'oversight' was a signal setback for Philip III. His commissioners in London had received explicit instructions to hammer out a treaty article prohibiting English trade and navigation beyond the Line. Compare Kenneth R. Andrews, *Trade, Plunder, and Settlement: Maritime Enterprise and the Genesis of the British Empire, 1480-1630* (Cambridge: Cambridge UP, 1984) pp. 122-124, 253-255; Paul C. Allen, *Philip III and the Pax Hispanica, 1598-1621: The Failure of Grand Strategy* (New Haven: Yale UP, 2000) pp. 135-136.

to breach of contract. The Gentlement XVII should refuse their consent for any kind of curtailment or revocation of the VOC charter, unless the Dutch Estates General offered them adequate compensation. Grotius did not consider it a terribly feasible scenario anyway: it still implied a renunciation of the Indies trade by the Dutch Estates General, which would be “very prejudicial and without precedent.” There was still a third possibility: the VOC directors might be asked to dissolve the Company of their own accord, which, in theory, could not prejudice their compatriots’ right to trade or navigate beyond the Line. In practice, such a scenario would require the active cooperation of Philip III of Spain. If the VOC directors went down this route, they should demand either “a big sum of money at good security and payable in short-term installments,” or extensive trading privileges in the East Indies. On this last point, Grotius preferred Philip III to grant the VOC directors the right of preemption. In that case, “the Portuguese would not be permitted to buy before the Company was provided with a certain quantity of spices and other wares.” The right of preemption should apply to the Moluccas at the very least, and if possible to *Asia Portuguesa* as a whole, including Goa and Cochin. It would allow the Company to recoup all subscribed capital and accumulated interest, while enjoying a reasonable profit for the risks sustained.⁴⁵

For all these detailed plans, Grotius was pessimistic about the practicality of his various schemes and tended to emphasize their disadvantages. In his view, the merchant consortium that held the European Contract from the Portuguese Crown longed to see the VOC go out of business. The major stakeholders of the merchant consortium assumed, quite correctly, that it would take a long time to create a Company equally strong and powerful, if it could be done at all. Not surprisingly, the consortium preferred to deal with unarmed private merchants, who were perfect targets for Habsburg naval forces. Grotius realized that some VOC shareholders were equally desirous of a sell-out to the enemy. They feared a decline in Company profits when direct trade between the Dutch Republic and the Iberian Peninsula would be resumed in peacetime. Grotius tried to expose the fallacy of this argument. Since Dutch trade with the Iberian Peninsula would never yield the large returns which VOC shareholders

⁴⁵ Dutch National Archives, Grotius Papers, Supplement I, fol. 408v–410r, 297v–298r.

could expect from the Indies trade, it made no sense to dissolve the Company except as a measure of last resort. In Grotius' view, "the Dutch Estates General must be made to understand" that Philip III would have free reign in the East Indies and prevent private merchants from going there the moment the VOC disappeared from the scene. He concluded that, in practical terms, a dissolution of the VOC at the behest of its directors did not differ materially from a renunciation of the Indies trade by the Dutch Estates General.⁴⁶

Grotius' worries about the fate of the Company were by no means allayed. More arguments against its dissolution are found in the left margin of fol. 410r of the Grotius Papers at the Dutch National Archives, as well as on a separate sheet of paper inserted between folios 409 and 410. Grotius pointed out, for example, that "the commonwealth" was in danger of exchanging "a small, immediate gain for an everlasting one, which had been bought with the blood of so many honest men." Since agriculture was of little importance to the Dutch economy, his compatriots should take care lest they lose their growing share of manufacturing and trade and navigation to the Portuguese. This could easily happen if the Portuguese regained their monopoly of the Indies trade and resumed their textile imports from Cambay and the Coromandel Coast. Indian cottons were just as comfortable to wear and featured much fancier designs than the plain old linen produced in the Dutch Republic. The textile imports from the Indian subcontinent had caused the collapse of the Dutch cloth trade only a few years hence, when the European, African and American markets were flooded with "carracks full of cottons." Grotius added on a separate leaf that shipments of raw silk from China had not exactly left the Portuguese destitute either and that, judging by its humble beginnings in the Republic, these imports might be equally profitable for his compatriots, "creating great riches." The same could be said of the trade in spices, oriental drugs, gemstones, sugar, and indigo, which could be obtained dirt cheap in China and on the Coromandel Coast. The VOC should acquire a large market share in all these products before long, provided it did not go out of business because of some treaty with Spain.⁴⁷

⁴⁶ *Ibidem* fol. 410r.

⁴⁷ *Ibidem*, left margin of fol. 410r, and separate sheet inserted between folios 409 and 410.

Grotius elaborated these points in his postscript on folios 415–419. Although presentation copies of the memorandum have not survived, it seems reasonable to assume that the postscript was included in the final version of the text.

Grotius realized that economic arguments would not be sufficient to convince the Dutch Estates General. The running text on f. 410v is largely concerned with the political and geo-strategic implications of a Dutch withdrawal from the East Indies. In Grotius' view, a Dutch withdrawal from the East Indies must be a great boon to Philip III, who longed to enjoy his colonial possessions undisturbed and take back, "without any fear or danger," all that he had once lost. Indeed, he might recover as much as three million ducats in Portuguese crown revenues and increase these multiple times at very little expense. If the royal councilors managed to balance the budget and reform government finances, it should not be too difficult for Philip III to attain "the power and riches that would inspire awe in all other princes and nations." In that case, the King would never lack the means to surreptitiously undermine "the status quo in these provinces" or openly attack the Dutch Republic, with a better chance of success than ever before. Grotius also pointed out that Their High Mightinesses would lose their honor and reputation if they did not make adequate arrangements for the Asian trading partners of the VOC. These trading partners happened to be the allies of the Dutch Republic and should not be excluded from a peace agreement with Spain. The rulers of Bantam and Johore had risked their thrones and the Sultan of Ternate had lost his because of the favor they had shown to Dutch merchants. This was indeed the only reason why the inhabitants of the Spice Islands had suffered so dearly at the hands of André Furtado de Mendoza, who visited them with "killings and conflagrations." Grotius warned that a Dutch withdrawal from the East Indies would result in death and destruction for "a great many people who had put their faith in the *pietas* of our nation." A peace agreement that diverted Dutch trade from the East Indies to the Iberian Peninsula would not just enrich Philip III, but also put "a great many ships and mariners" at his disposal. The King might well betray the confidence of Their High Mightinesses and impose a trade embargo similar to that of 1598, when he caused great social unrest in the United Provinces by confiscating Dutch ships, imprisoning their crews, and depriving Dutch manufacturers of their livelihoods. Grotius was convinced that an insurrection had only been narrowly avoided at that time. Significantly, it was the Guinea and East Indies trades that had provided new employment to mariners and manufacturers alike. Yet the United Provinces might not be so lucky the next time around. If a peace treaty with Spain

made no adequate provisions for the Asian allies of the VOC, the latter could hardly be expected to sympathize with Dutch merchants and welcome the latter back to their ports when a Habsburg monarch should impose a trade embargo in peacetime. In sum, Grotius was dead against a Dutch withdrawal from the East Indies and implored both the Dutch Estates General and the VOC directors not to go down this perilous path.⁴⁸

Grotius much preferred a continuation of the war in the East Indies, the third alternative discussed in his memorandum. He was confident that the King of Spain would accept a peace agreement that was strictly limited to Europe. After all, similar arrangements had been made in the treaties of Vervins in 1598 and Somerset House in 1604. Although these treaties did not, for example, formally bar French or English merchants from *Asia Portuguesa*, it was understood that they would navigate and trade there at their own risk. Habsburg naval forces could attack French or English ships as soon as the latter crossed the Line. The reverse was also true, of course. Yet the peace in Europe had not been endangered by these hostilities in faraway lands and waters. In Grotius' view, it was an attractive option that must be brought to the attention of the Dutch Estates General. War beyond the Line was the best way to increase the Indies trade, keep Philip III in check, and ensure Dutch access to Asian ports and markets, just in case the European peace did not hold and the United Provinces faced another round of warfare both at home and abroad.⁴⁹

⁴⁸ Dutch National Archives, Grotius Papers, Supplement I, fol. 410r–411r, 415–419.

Grotius was quite prescient about the effect which a Dutch withdrawal from the East Indies or a discontinuance of the war there might have on the VOC's indigenous allies. For example, the Sultan of Johore was informed about the peace negotiations in The Hague by VOC commander Pieter Willemszoon Verhoef in January 1609. The unwelcome news caused the demise of the pro-Dutch faction at the Johorese court. The Sultan concluded a peace agreement with Portuguese Malacca in 1610, which was only rescinded when his brother, Raja Bongsu, ascended the throne in 1615. Compare Borschberg, 'Luso-Johor-Dutch Relations in the Straits of Malacca and Singapore, ca. 1600–1623', *Itinerario* 28 (2004) pp. 15–35, in particular pp. 24–31.

⁴⁹ *Ibidem* fol. 411r.

Although Philip III wished to believe that the English had been excluded from the Indies under the terms of the Somerset House Treaty, the reality was quite different. See Allen, *Philip III and the Pax Hispanica* p. 136; Andrews, *Trade, Plunder and Settlement* pp. 253–279, 294–340.

Grotius feared that the Company directors would reject this scenario out of hand, as well they might. After all, it was not the job of private merchants to take on the King of Spain, who would surely concentrate his forces in Asia when he was free of military obligations elsewhere. Indeed, the King of Spain was eager for a peace treaty precisely because he wished to redress the situation in the East Indies. The VOC should expect a two-pronged attack by the combined forces of the Viceroy at Goa and the Spanish governor in the Philippines, which would undoubtedly result in great bloodshed and loss of life, not to mention the costs of sending Dutch warships and maintaining Dutch garrisons over there. Extraordinary expenses such as these could easily drain the VOC of all its capital, if not today, then tomorrow. The Company had only achieved intermittent victories over their Portuguese foes since its establishment in 1602. Things would only get worse, not better, once peace had been concluded in Europe and Philip III had put his own house in order. So far, the VOC had managed to keep the enemy at bay by seizing a couple of carracks. As Grotius noted, “private merchants have oftentimes braved monarchs and princes this way.” Yet it was an entirely different kettle of fish to engage the Spanish navy, which had never been done successfully, witness the French and English exploits in the West Indies and the VOC’s recent loss of the Moluccas. Add to this the fact that there were many Dutchmen of tender conscience, some of whom refused to share in the booty which the VOC had captured from the enemy with the approval of Their High Mightinesses. How many more objections could VOC shareholders raise against a private war waged at their expense, which would make it appear as if they were responsible for all of the world’s commotion! Understandably, the VOC directors preferred an end to all hostilities at home and abroad—‘peace in Europe and war beyond the Line’ seemed a concept fraught with problems.⁵⁰

Such considerations did not discourage the Delft jurist. In his view, each and every difficulty would disappear like snow in summer as soon as the Company petitioned the Dutch Estates General for military and financial assistance that was “public, secure and generous.” The Company would enjoy an even greater advantage if it could obtain the cooperation of “neighboring rulers.” The best way to clip

⁵⁰ Dutch National Archives, Grotius Papers, Supplement I, fol. 411r–412r.

Habsburg wings was for French and English merchants to purchase “the most precious wares” from the VOC, rather than from the Portuguese Crown. It had the additional advantage of leaving Henry IV and James I unconstrained by the capricious foreign policy of Philip III. Grotius acknowledged that the latter might raise some objections. Yet he was confident that the King would not reject a peace treaty just because of these arrangements. A monarch who “publicly supports his own” could hardly deny the Dutch Estates General the right to offer financial and military assistance to its subjects. Peace at home would make it necessary to station Dutch warships off the Iberian Peninsula and Flemish Coast, which should allow Their High Mightinesses to switch some naval resources to the Company. In Grotius’ view, “the proposed aid” would both secure the Indies trade and prevent social unrest in the Dutch Republic. In case of emergency, Their High Mightinesses would have a “fine, ocean-going armada” close at hand. The VOC directors should remember, of course, that theirs was a just cause. They stood for “the natural freedom of trade” and the obedience that was due to a lawful government. As such, they would never lack divine blessing, the Lord being “an enemy of pride and injustice.” The Company would indeed be “master of the seas” before long, due to its predominance in shipping and the manly courage of its mariners. Since the Portuguese had few friends left in the East Indies, VOC commanders could count on the active support of indigenous princes and peoples whenever they tried to dislodge the enemy from his strongholds. The VOC enjoyed another advantage: richly laden Iberian merchantmen were vulnerable to privateering raids, especially on the west coast of the American continent. Grotius encouraged the VOC directors to find out more about “the situation of Peru,” where the famed silver mines of Potosi were located—after all, the Pacific Ocean and its shores were within the purview of the VOC charter. The VOC could, for example, offer military assistance to the restless Indians, which would create major difficulties for their Spanish overlord, “all to the great advantage of these provinces.” The Company should make a point of sending powerful fleets to Asia and certainly not disarm itself, even if the East Indies were included in a peace treaty with Spain. Grotius did not anticipate that funding would be a problem. The VOC directors could petition the Dutch Estates General for an exemption from import duties and the twenty percent tax on booty. More importantly,

the Company should demand a substantial contribution towards the upkeep of its garrisons in the Spice Islands. As a cost-cutting measure, the VOC directors might try to turn these garrisons over to the Dutch Estates General. In addition, they needed to find out whether or not the Dutch Estates General had any intention of renewing the VOC charter. It was useless to spend heavily on the war in the East Indies if the charter would expire in March 1623.⁵¹

What, then, was Grotius' advice to the VOC directors? They needed to address themselves to the Dutch Estates General, discuss the implications which the upcoming peace negotiations might have for the Company, and recommend strongly the first alternative discussed in his memorandum. As far as Grotius was concerned, the

⁵¹ *Ibidem* fol. 412r–v.

Grotius was completely right in his confident prediction that the Dutch Estates General would dramatically reduce naval expenditures during the Twelve Years' Truce and use its revenues to support the VOC instead. Of special interest in this regard is the petition which Their High Mightinesses received on 16 November 1610, which had been drafted by Grotius. The petition emphasized the high cost of maintaining garrisons in the Spice Islands, and requested additional aid for the VOC. The Dutch Estates General was asked to raise its financial contribution from 100,000 to 175,000 guilders (= £17,500) per annum. Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 337–340; *Resolutiën der Staten-Generaal: Nieuwe Reeks* Vol. I: 1610–1612 (RGP 135) p. 254.

Thanks to Grotius' good offices, the Dutch Estates General decided to scrap article seven of the VOC charter. The Gentlemen XVII were initially obliged to close their books in 1612, return the Company's starting capital to the shareholders, and then take new subscriptions. The VOC directors deftly cited Grotius' arguments when they urged leniency on this point in their petition of 28 July 1612. The Dutch Estates General complied with their request three days later. Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 389–392; *Resolutiën der Staten-Generaal: Nieuwe Reeks* Vol. I: 1610–1612 (RGP 135) p. 703.

Grotius attached great importance to the geostrategic benefits of Dutch predominance in the spice trade at the Anglo-Dutch colonial conferences of 1613 and 1615. On that occasion, the argument served to justify the VOC's decision to exclude the English East India Company from the Spice Islands. To be sure, Grotius would prefer the VOC and EIC to combine against the Habsburg enemy. Yet if this was politically unfeasible—James I would have none of it—the English merchants should defer to the trading company that defended freedom of trade and navigation in Asian waters. Only the military and naval power of the VOC could prevent the Portuguese from regaining an absolute monopoly of all trade and navigation in the East Indies. The EIC therefore had a moral obligation, so Grotius argued, to buy nutmeg, mace and cloves exclusively from the VOC and respect its monopoly of trade in the Spice Islands. Needless to say, the EIC directors entertained a rather different view of the matter. W.J.M. van Eysinga and G.N. Clark, *The Colonial Conferences between England and The Netherlands in 1613 and 1615*, 2 vols., *Bibliotheca Visseriana*, XV and XVII (The Hague: Brill, 1940 and 1951) Vol. I pp. 190, 199.

Dutch Estates General should insist upon freedom of trade and navigation as vigorously as the King of Spain would deny it. He encouraged the VOC directors to “use the reasons summarily cited above” in order to demonstrate the “equity” of such a demand. If Their High Mightinesses proved unresponsive and favored the third alternative instead, the VOC directors would do well to request further financial and military assistance, including a “public declaration and assurance” to this effect. They should make it absolutely clear that otherwise they would not continue the war beyond the Line. They could strengthen their argument by means of a “detailed deduction of all the difficulties involved” and point out that the Dutch Republic had more to gain from a continuation of the war in the East Indies than the Company. It should be relatively easy, for example, to reach an agreement with the merchant consortium that held the European Contract from the Portuguese Crown. That would be the best alternative in case the Dutch Estates General refused to give sufficient guarantees. The VOC directors could ask Their High Mightinesses to intercede with the merchant consortium and make peace on the explicit condition that the Company would receive “a goodly sum of money or else some trading privilege, as discussed above with respect to the second alternative.” It was equally possible, however, that the Dutch Estates General would decide to gloss over the VOC’s interests in their negotiations with the Archdukes and Philip III—as the French and English monarchs had done at the Vervins and Somerset House peace conferences. In that case, all of the Company’s trading capital (both specie and merchandise) should be sent home as soon as possible. Meanwhile, the VOC

The voyage of Jacques Mahu and Balthasar de Cordes to Magellan Straits and the circumnavigations of Thomas Cavendish and Olivier van Noort must have convinced Grotius that it was good fishing in the troubled waters of the New World. The journals were published in Dutch in 1589, 1600 and 1602, respectively. According to these accounts, the Spanish faced stiff resistance from Amerindians everywhere, all the way from Chile in the south to the Panama isthmus in the north. Compare Andrews, *Trade, Plunder and Settlement* pp. 129–134, 142–158, 166, 156; [Thomas Cavendish], *Coppye, ouergeset wt de Engelsche taele* (Amsterdam, 1589); [Sebald de Weert], *Wijdtloopigh Verhael van Tgene de Vyf Schepen* (Amsterdam, 1600), reprinted in *De Reis van Mahu en Cordes door de Straat van Magalhães naar Zuid-Amerika en Japan, 1598–1600* ed. F.C. Wieder 3 vols. (The Hague: Martinus Nijhoff, 1923–1925) Vol. I pp. 147–245; [Olivier van Noort], *Beschryvinghe vande Voyagie om den geheelen Werelt Cloot* (Amsterdam: Cornelis Claeszoon, 1602) reprinted in: J.W. IJzerman, *De reis om de wereld door Olivier van Noort, 1598–1600* 2 vols. (The Hague: Martinus Nijhoff, 1926) vol. I pp. 1–157.

directors could try to reach a private agreement with the merchant consortium that held the European Contract from the Portuguese Crown. It was an unduly bleak scenario: Grotius underestimated the support that the Company continued to enjoy from the Dutch Estates General, thanks in no small measure to his own good offices.⁵²

Grotius' memorandum was discussed and adopted by the VOC directors at their extraordinary meeting in The Hague in early February 1608. So much is clear from a letter written by the French envoy Pierre Jeannin in the middle of the month. He noted that the VOC directors had made "a great stir" and submitted a "summary treatise" to the Dutch Estates General, which he dutifully forwarded to Henry IV of France. Judging by Jeannin's synopsis, the "summary treatise" was a modified version of Grotius' memorandum. The envoy observed, for instance, that the Dutch were strangely confident that Philip III would give the VOC permission to trade in the East Indies for the duration of its charter. Grotius was indeed breezily optimistic on this point when he discussed the possibility of a Dutch withdrawal from the East Indies in his memorandum. Yet Jeannin cautioned that neither the VOC directors nor Their High Mightinesses were likely to give their formal consent, even if a Dutch withdrawal from the East Indies could be postponed for another ten years or so. "For they say that they will lose the trade on the very first day that it becomes known that they cannot go there after a certain date." Grotius had said as much in his memorandum, of course. Jeannin unwittingly repeated Grotius' argument when he explained that Asian princes and peoples would break with the Dutch and befriend the Portuguese again if they realized that the former could no longer protect them against their enemies. Grotius had cited the exact same reason when he advised against a Dutch withdrawal from the East Indies in his memorandum. The VOC directors and the Dutch Estates General were happy to borrow other arguments from his memorandum as well. They accepted, for example, that the only viable alternative to a Dutch withdrawal from the East Indies was a) freedom of trade and navigation, or b) continued warfare beyond the Line, in that order of preference. Jeannin discussed both options in his letter. The Dutch would be happy to "trade like enemies" in

⁵² Dutch National Archives, Grotius Papers, Supplement I, fol. 413r-v; Veen, *Decay or Defeat?* pp. 156-166.

the East and West Indies, “just like the French do,” as long as it did not endanger the peace in Europe. Yet they would much prefer to call on Spanish and Portuguese ports everywhere by reason of the peace, “which grants this freedom of trade to allies and friends.” Yet they had no intention of abandoning their Asian allies, with whom they would continue to trade “by virtue of the law of nations.” Grotius’ memorandum was quite clearly uppermost in the minds of Their High Mightinesses, who had embraced his plea for freedom of trade and navigation as their starting point for negotiations with Philip III and the Archdukes.⁵³

Grotius’ memorandum was a mixed blessing for the peace negotiations, precisely because it stiffened the resolve of the Dutch Estates General. Other parties involved in the peace negotiations, such as the French and English monarchs, underestimated at first just how influential Grotius’ memorandum was in Dutch government circles. Both rulers reacted in utter disbelief when they learnt of the adamant refusal of Their High Mightinesses to contemplate a partial or complete withdrawal from the East Indies. Jeannin already voiced his concerns about Dutch intransigence in his letter to Henry IV of 16 February 1608. The envoy realized that the peace talks would be at a dead end unless he could induce Their High Mightinesses “to lower the stakes somewhat.” Jeannin’s fears were born out by later developments. Henry IV of France was of a different opinion. He fully expected the Dutch Estates General to give in on the issue of the Indies trade. His reply to Jeannin of 27 February 1608 was characteristically dismissive of the VOC. In the grand scheme of things, the commercial interests of a few Dutch merchants were surely less

⁵³ Jeannin to Henry IV, 16 February 1608, printed in *Les Négociations de monsieur le Président Jeannin* 4 vols. (Amsterdam, 1695) Vol. II pp. 110–111; Den Tex, *Oldenbarnevelt* vol. II: *Oorlog, 1588–1609* p. 599; Allen, *Philip III and the Pax Hispanica* p. 206.

The extraordinary meeting of the VOC directors had been carefully planned. Initial preparations were made at the half-yearly meeting of the Gentlemen XVII in Amsterdam in October 1607. Reynier Pauw sent a reminder to each VOC chamber on 26 January 1608, just before the Archdukes’ representatives arrived in The Hague. The VOC directors must have assembled in The Hague prior to 13 February 1608, when the Archdukes’ representatives first raised the issue of the Indies trade in their negotiations with the Dutch Estates General.

The Habsburg delegation consisted of Marquis Ambrosio Spinola, the Archdukes’ field commander, Jean Richardot, President of the Archdukes’ Council, Don Juan de Mancidor, the Archdukes’ Secretary of State for war, *Audientier* Louis Verreyken, and Father Jean Neyen, the Archdukes’ confessor.

important than, let's say, the question of international borders, which must determine the future safety and security of the United Provinces. The French monarch warned Jeannin on 19 March that Philip III would brook no compromise that undermined the integrity of his colonial empire still further. Even the slightest concession in this regard would be considered "a very great and shameful sign of weakness on the side of Spain." The English Privy Council shared Henry IV's cool-headed analysis of the situation. The Dutch Estates General received a letter to this effect from Noel Caron, the Dutch agent in London, dated 10 March 1608. According to Caron, the English Privy Council confidently predicted that, in exchange for peace and independence, Their High Mightinesses would agree to a complete Dutch withdrawal from the East Indies, provided Philip III allowed the VOC two or three years to bring home its merchandise and personnel. The facile assumptions of the French and English governments were hardly farfetched. The United Provinces did not speak with one voice. The northern and eastern provinces, which cast four of the seven votes in the Dutch Estates General, were extremely reluctant to sacrifice a peace treaty for the sake of the Indies trade.⁵⁴

While Holland did not waver in its rejection of the enemy's "impossible" and "impractical" demands, the provinces of Utrecht, Overijssel, Friesland and Groningen proposed on 15 February 1608 that the Dutch Estates General moderate its tough stance on the Indies trade, lest the issue derail the peace talks. As Grotius had already observed in his memorandum, the VOC still needed to do a lot of persuading at the highest levels of government in order to secure its own survival, but the structure of Dutch politics worked to the Company's advantage. The war and peace parties were, for instance, unevenly distributed throughout the United Provinces. Since agriculture, the mainstay of their economies, had suffered badly from marauding Spanish soldiers, the landlocked eastern provinces overwhelmingly

⁵⁴ Jeannin to Henry IV, 12 March 1608, and Henry IV to Jeannin, 27 February and 19 March 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II pp. 131–132, 135, 168, 192; Noel Caron to Oldenbarnevelt, 10 March 1608, *Johan van Oldenbarnevelt: Bescheiden betreffende zijn staatkundig beleid en zijn familie* S.P. Haak and A.J. Veenendaal eds., 3 vols. (The Hague: Martinus Nijhoff, 1934–1967) Vol. III (RGP 121, Grote Serie) pp. 654–655; Allen, *Philip III and the Pax Hispanica* pp. 178–183, 203–204, 217–218.

favored peace. The province of Zeeland, on the other hand, was largely oriented towards trade and navigation, and a war party stronghold. Unenthusiastic about the peace negotiations to start with, the Estates of Zeeland opposed any concession to the enemy that might prejudice the VOC. The eastern provinces were decidedly unwilling to overrule Zeeland in the Dutch Estates General. As Jeannin explained to Henry IV on 12 March 1608, “it is a law among them, that in matters of such significance one may not resolve anything without the consent of all.” The Estates of Holland and Zeeland, for that matter, were convinced that the Archdukes’ representatives would give way in the end. Their representatives did not fail to make this point in the Dutch Estates General, which ensured the quiescence of the eastern provinces. Their High Mightinesses also had to take account of the opinion of Prince Maurice, who had a personal stake in the continuation of the war. As Lord High Admiral, he was entitled to a thirtieth share of all booty captured beyond the Line. This lucrative source of income would dry up as soon as the VOC withdrew from the East Indies. For all that, the Stadtholder made no attempt to impose his wishes on the Dutch Estates General, so Jeannin informed Henry IV on 17 March. The French envoy attributed the restraint shown by Prince Maurice to his “respect for Your Majesty” and the strength of “our arguments.” There was, however, another possibility. As a rule of thumb, the Stadtholder did not interfere with the economic interests of Holland and Zeeland. There was a tacit understanding, shared by the Stadtholder and eastern provinces alike, that the formulation of Dutch trade policy should be left to the merchants who dominated the Estates of Holland and Zeeland. The VOC was certainly in a position to exploit this unwritten rule. Quite a few VOC directors held municipal offices in Holland and Zeeland and served as their town’s representative in the provincial Estates, which oftentimes delegated them to the meetings of the Dutch Estates General—the example of Adriaen ten Haeff comes to mind. It cannot have been terribly difficult for the VOC directors, then, to convince Their High Mightinesses of the merits of Grotius’ memorandum, the restiveness of the eastern provinces notwithstanding.⁵⁵

⁵⁵ *Resolutiën der Staten-Generaal, Viertiende Deel, 1607–1609* (RGP 131) p. 364; Jeannin to Henry IV, 7 and 12 March 1608, printed in *Les Négotiations de monsieur le President Jeannin* Vol. II p. 157 and 168.

The VOC directors also enjoyed some tactical advantages in making their case to the Dutch Estates General. At this critical juncture, the merchants and magistrates who advocated the establishment of a Dutch West India Company came out in support of the VOC directors. Jeannin even believed that the two parties had made common cause. He wrote to Villeroy, a French Privy Councilor, on 29 March 1608 that

there is a great furor over the Indies trade here. Both those of the Company [e.g., the VOC] and other warmongers magnify it as the only means to enrich these Provinces, and diminish the revenues of Spain.

Jeannin had reckoned without the Advocate of Holland, however. Oldenbarnevelt managed to translate the clamor for a West India Company into concrete political gains for the VOC, which established its interests as separate from the war party. Unknown to Jeannin, plans for the founding of a West India Company had already been shelved by the Dutch Estates General in January 1607. Oldenbarnevelt had dissuaded Their High Mightinesses from granting a charter at that time, on the grounds that a West India Company could not survive without a monopoly of the salt trade, which became impossible to implement once the salt traders of Hoorn and Enkhuizen refused their cooperation. Oldenbarnevelt felt no need to change his opinion a year later. Yet he was clever enough to use the specter of a West India Company in his negotiations with the Archdukes' representatives. He first made sure to show his good faith, of course. It was at his instigation that the Estates of Holland decided on 18 February 1608 not to entertain any further requests for a WIC charter. The resolution of the Estates of Holland was presented to the Archdukes' representatives as a magnanimous Dutch concession, which warranted an equally generous gesture on their side, preferably some arrangement for freedom of trade and navigation in the East Indies. Oldenbarnevelt's bluster would eventually pay off for

Both Albert de Veer (1564–1620), Pensionary of Amsterdam, and Jacob Boeleszoon (1554–1621), Burgomaster of Amsterdam, were Holland deputies in the Dutch Estates General in 1608. They had been VOC shareholders since 1602. VOC directors Reynier Pauw, Jacob Boreel and Adriaen ten Haeff may well have attended the meetings of the Dutch Estates General in February and March 1608. The editors of *Resolutiën der Staten-Generaal* note that the attendance lists were always incomplete. The undercount was particularly notorious in the year 1608. Compare *Resolutiën der Staten-Generaal, Viertiende Deel, 1607–1609* (RGP 131) p. 323; Dillen, *Het oudste aandeelhoudersregister* pp. 160, 216.

the VOC. Yet his deft maneuvering failed to convince Jeannin, who was eager to reach a compromise over the question of the Indies trade.⁵⁶

The boisterous optimism and self-confidence of Their High Mightinesses did not make it easy for Jeannin to mediate between them and the Archdukes' representatives. As Jeannin noted in a letter to Henry IV on 15 March 1608, his Dutch interlocutors were convinced that the mere prospect of a West India Company, "whereof they talk all day," would scare Philip III into conceding "all their demands." Yet he feared that Philip III would call their bluff. He added wistfully: "we desire it just as much as they do, but we have little hope as yet." In his view, some sort of messy compromise was the best that could be hoped for. The Dutch Estates General would have to come down from the moral high ground, while the Archdukes' representatives should be persuaded to act according to the spirit, not the letter, of their instructions. Jeannin tried to impress upon Richardot, for example, that Their High Mightinesses would never agree to a treaty article stipulating a Dutch withdrawal from the Indies and that Philip III could ensure the integrity of his colonial empire without insisting on this point. In conversations with the Dutch negotiators, Jeannin was careful not to dispute the natural freedom of trade and navigation, yet faulted them for the impracticality of their demands. The envoy made much of "the inconveniences and dangers" that would ensue if peace talks were broken off.

⁵⁶ Jeannin to Villeroy, 29 March 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II pp. 212–213; Robert Fruin, *Verhooren en andere bescheiden betreffende het rechtsgeding van Hugo de Groot* (Utrecht: Kemink en Zoon, 1871) p. 33; Den Tex, *Oldenbarnevelt* vol. II: *Oorlog, 1588–1609* pp. 541, 575, 607; Barendrecht, *François van Aerssen* p. 93 Catharina Ligtenberg, *Willem Usselinx* (Utrecht, 1914) pp. 19–23.

Dutch privateers turned their attention to the West Indies in the 1590s, particularly Brazil, the Wild Coast, and the Caribbean Islands. The future VOC commander Paulus van Caerden made a valiant, though unsuccessful, attempt to establish a Dutch fortress on the coast of Brazil in 1603. That same year Philip III decreed the depopulation of the cattle-ranching zone of northwestern Española to choke off Dutch contraband trade. The presence of Dutch privateers in the Caribbean induced Spanish governors to strengthen their coastal defenses, notably in Havana and Santiago de Cuba between 1602 and 1606. The Spanish navy went on the offensive in November 1605, when an *armada* of eighteen ships, with a combined crew of 2,500 men, surprised Dutch salt traders at Punta de Araya in Venezuela, many of whom were summarily executed. As a result, Dutch activity in the area had already been drastically reduced prior to the Twelve Years' Truce. Compare Klooster, *Illicit Riches* pp. 17–36 and Jonathan I. Israel, *Dutch Primacy in World Trade, 1585–1740* (Oxford: Clarendon Press, 1989) pp. 60–66, 80–84.

In a letter to Villeroy of 27 February, he expressed the fear that “the provinces that have no stake in this trade [would] separate themselves from the others.” When he wrote to Henry IV on 12 March, he despaired at the stubborn refusal of Their High Mightinesses to make any concessions to Philip III, who could not be expected to “surrender all he has without obtaining anything in return.” Jeannin was even more pessimistic in his letter to Henry IV of 17 March. As matters stood, there was no reason for Philip III to make peace for he would gain nothing by it. It was clear to all parties involved that a peace treaty should consist of three points: “the sovereignty, the East Indies trade, and the restitution of places in Brabant and Flanders.” Regrettably, the Dutch Estates General wanted to have it all, without “accommodating the King of Spain or the Archdukes in anything,” but there was a silver lining. Oldenbarnevelt appeared to have come round to Jeannin’s point of view that endless bickering over the Indies trade might result in a separate peace between Philip III and the eastern provinces, and, hence, the break-up of the Dutch Republic. Clearly, this was too high a price to pay for the sake of the VOC. Jeannin believed that he had Oldenbarnevelt where he wanted him. Yet the French envoy still needed to get the Archdukes’ representatives to agree to a compromise.⁵⁷

At the same time that he sought to dampen down the Dutch Estates General’s enthusiasm for freedom of trade and navigation, Jeannin borrowed many of its arguments, which were ultimately derived from Grotius’ memorandum, in order to put pressure on the Archdukes’ representatives. Jeannin wrote to Henry IV on 7 March that he had spoken numerous times with Richardot and urged him to make some concessions. The French envoy had cited various rea-

⁵⁷ Jeannin to Villeroy, 27 February 1608, Jeannin to Henry IV, 7, 12 and 15 March 1608, printed in *Les Négotiations de monsieur le President Jeannin* Vol. II pp. 140, 145, 153–155, 168, 183.

The resolution of the Estates of Holland failed to silence the Dutch merchants and magistrates who lobbied Their High Mightinesses for a charter for a Dutch West India Company. In the spring of 1608, the Amsterdam trader Willem Usselinx published three pamphlets in support of the VOC and WIC, detailing past and future benefits of the Indies trade, which, he argued, the Dutch Estates General would be ill-advised to exchange for a fragile and insecure peace. Compare Den Tex, *Oldenbarnevelt* vol. II: *Oorlog, 1588–1609* pp. 541, 575, 607; Barendrecht, *François van Aerssen* p. 93; Ligtenberg, *Willem Usselinx* pp. 19–23.

sons for a compromise on the Indies trade. He had pointed out that a Dutch withdrawal from the East Indies could be brought about by other means than by a treaty article stipulating the same. The reestablishment of trade between the United Provinces and the Iberian Peninsula might well do the trick according to Jeannin. His Dutch contacts admitted that privateering was by far the most important source of revenue for the VOC. Since purchase prices in Asia were two and a half times higher for the VOC than for the Portuguese, it were the latter who reaped the greatest trading profits. There was good reason to believe that Dutch merchants would stay away from the East Indies in times of peace because they could not win the commercial competition with the Portuguese or engage in privateering anymore. This was not, of course, an argument that would have gone down well with Grotius or the VOC directors. Yet Jeannin also argued his case on the basis of natural law. Richardot was told that Philip III acted unjustly, and against the law of nations, when he sought to deny the Dutch the right to trade in areas where he himself was not in actual possession. Jeannin pointed out that sovereign Asian rulers had, in fact, given the VOC permission to trade in their ports and lands. Richardot should also consider the futility of forbidding "this trade and navigation to all the nations of the earth," if only because it was impossible for the Portuguese to effectively patrol the vast expanses beyond the Cape of Good Hope. It would indeed be an act of enlightened self-interest if Philip III admitted the Dutch to the East Indies. Their cooperation was necessary in order to drive out other European interlopers. The Spanish and Portuguese could still enjoy the Indies trade "with great profit and advantage" when they shared it with the VOC, which had the additional advantage of joining former enemies "in unity and friendship." Before long, the Dutch would be completely absorbed in their trade with the Iberian Peninsula and East Indies, and have no other "friendship and conversation" than with the Spanish and Portuguese. Once the Dutch deemed peace profitable, "which it must be for them," these poor "disarmed peoples" would be totally incapable of harming the subjects of Philip III, and might well be more useful to their former enemies than to anybody else. Should the Archdukes' representatives refuse to make any concessions, however, "all those interested in the Company" would undoubtedly join the war party and force the Dutch Estates General to resume the war. The envoy's

arguments were entirely convincing to Richardot. Yet he admitted that his hands were tied by the Archdukes' instructions.⁵⁸

Jeannin had been told a white lie. It was Philip III, not the Archdukes, who insisted on a Dutch withdrawal from the East Indies. True, he had been keen on a cease-fire in the Low Countries ever since he came to the throne—the Castilian treasury was overburdened with war debts. Yet he expected his rebel subjects to pay a heavy price for the suspension of hostilities and, at the very least, agree to freedom of worship for Dutch Catholics and a total prohibition of Dutch trade and navigation beyond the Line. There was one difficulty: Philip III had never been the sole policy maker in the Low Countries. Desperate to salvage their war-torn patrimony, the Archdukes had consistently undercut his negotiating position and conceded too much to the Dutch too soon. Ever since his return to Brussels in August 1599, accompanied by his new wife, the Infanta Isabella, Archduke Albert had sent one envoy after another to The Hague, begging the rebels to consider his peace proposals. When Oldenbarnevelt offered him a cease-fire in the spring of 1607, he had assented without further ado and renounced his claim to the United Provinces even before the start of the peace talks. Worse, the armistice treaty was completely silent on the issue of religion, not to mention the Indies trade. In his eagerness to end a war that he knew he could not win, Albert had simply dropped the King's preconditions. Confronted with a *fait accompli*, it took Philip III a long time, nearly six months, to ratify the cease-fire agreement. Albert received two copies of the ratification, which could not have been more different: the first one stipulated freedom of worship for Dutch Catholics, while the second one was a creative adaptation of Oldenbarnevelt's formula, which Albert promptly forwarded to The Hague in October 1607. He realized that negotiations might never get underway if the Dutch Estates General set eyes on the first copy. At the same time, he was convinced that a peace treaty should satisfy Philip III on the issues of trade and religion, or the King would never sign it. When talks finally got underway in The Hague in February 1608, his representatives were instructed accordingly. They warned

⁵⁸ Jeannin to Henry IV, 7 March 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II pp. 145–146; Boyajian, *Portuguese Trade in Asia under the Habsburg* pp. 86–127; Enthoven, *Zeeland en de opkomst van de Republiek* pp. 199–211.

Jeannin that the Spanish Privy Council would advise against a peace treaty, unless it contained some major Dutch concessions. Yet they made it appear as if the Indies trade was the King's sole concern, and never broached the issue of religion in their conversations with Jeannin and the Dutch negotiators. It was only in August 1608 that they formally tabled Philip III's demand of freedom of worship for Dutch Catholics, which immediately put an end to the peace talks.⁵⁹

Which arguments did Richardot use to justify the King's insistence on a total prohibition of Dutch trade and navigation beyond the Line? As a seasoned diplomat, Richardot thought it best to discuss the issue in the context of the peace treaties of Vervins and Somerset House. He declared that Philip III could not be expected to grant Their High Mightinesses what he had denied to other "mighty monarchs," James I of England and Henry IV of France. English merchants were excluded from the Indies trade by an "express article" in the Somerset House Treaty, which he had negotiated himself, effectively confining them to the towns and ports where they had traded before the war. Richardot's memory failed him on this point. The English envoys in The Hague—Sir Richard Spencer and Sir Ralph Winwood—did not share his interpretation of the Somerset House Treaty, leaving Oldenbarnevelt and Jeannin some much-needed room for maneuver. The real Achilles' heel of his argument was the Peace of Vervins, which failed to ban, or even mention, French contraband trade and privateering in the Caribbean. It had been a crucial oversight on the part of the Spanish negotiators in 1598, which Richardot was at pains to explain away, of course. He stated, with little conviction, that an article prohibiting French trade

⁵⁹ Allen, *Philip III and the Pax Hispanica* pp. 19–20, 37–38, 40, 51–53, 64, 70–72, 80, 82–83, 91–98, 182–196, 203–220; Sluiter, *The Gold and Silver of Spanish America, c. 1572–1648* pp. 137–145 and Tables E–1, E–II; Den Tex, *Oldenbarnevelt* vol. II: *Oorlog, 1588–1609* pp. 542–545, 549–553, 558–566, 579–580, 585–590, 603, 605; Philibert du Bois, *Diplomatische Berichte an den Fürsten Ludwig zu Anhalt von 1605 bis 1620* ed. Friedrich W. Ebeling (Leipzig, 1856) Vol. II pp. 205–211 (Albert's instructions of 16 January 1608); Jeannin to Henry IV, 7 March 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II p. 146.

The Archdukes' foreign policy was extensively discussed at the 'Talking Peace: Somerset House 1604' conference at King's College, London, on 27 May 2004. Prof. Mia Rodríguez-Salgado of the London School of Economics and Dr. Bernardo José García García of the Universidad Complutense confirmed that Philip III was constantly upstaged by the Archdukes in his policies vis-à-vis France, England, and the Dutch Republic.

and navigation beyond the Line had been deemed superfluous by the Spanish negotiators because France had been devoid of any “armed vessels” at the time of the Vervins peace talks. Unconvinced by his own argument, he proceeded to list various other reasons why the Dutch would do well to heed the King’s demands. He emphasized that the Portuguese had been “in possession” of the East Indies trade for over one hundred and twenty years, to the exclusion of all others. In the context of the current negotiations, it was only fair that Philip III should receive something in return for his royal bounty. The King had already relinquished his claim to the United Provinces and offered his former subjects trading privileges in the Southern Netherlands and Iberian Peninsula. Indeed, he did not treat as a vanquished monarch, but as a “great Prince, who has the forces and means to renew the war.” The most that the Dutch could expect from him was a liberal indemnity for the VOC: five years should be sufficient to wrap up its affairs in Asia and bring home its merchandise and personnel. Needless to say, Oldenbarnevelt and the Dutch Estates General thought otherwise.⁶⁰

Dutch trade and navigation in the East Indies was first discussed at a meeting between Oldenbarnevelt and the Archdukes’ representatives on 13 February 1608. The issue dominated the peace talks right until the end of March. Like Grotius and the VOC directors, Oldenbarnevelt was strongly in favor of freedom of trade and navigation in the East Indies. Indeed, he cited chapter and verse of Grotius’ memorandum in order to make his case. On four separate occasions, Oldenbarnevelt argued that the Indies trade was a “matter of state” and essential for “the freedom and welfare of the country.” Trade and navigation had always been “the foundation of our provinces.” Oldenbarnevelt estimated that “twenty thousand people” were dependent on the VOC for their livelihoods. In addition, there were “over a thousand persons governing these provinces” who had a financial stake in the VOC, either as director or as shareholder. (Oldenbarnevelt was, of course, a shareholder himself!) Nor were Their High Mightinesses particularly eager to break the “solemn promises” made to the VOC. Indeed, it would be “political heresy” to ban their own subjects from “two-thirds of the world,” and do

⁶⁰ Jeannin to Henry IV, 7 March 1608, printed in *Les Négotiations de monsieur le President Jeannin* Vol. II pp. 143–146.

so “by contract.” Such a peace treaty would lack all reason, justice and fairness. A Dutch withdrawal from the East Indies could not be in the interest of Spain either. The VOC might easily be reestablished under a different name in France or England. The rulers of these countries would not be content with peaceful trade, “as we are” (sic!), but would try to conquer the Indies instead. The Dutch, on the other hand, were reluctant privateers and much preferred “honest trade and commerce without hostility.” Provided peace was declared in both Asia and Europe, the VOC would gladly revert to the defensive policies of the regional trading companies (*voorcompagnieën*): “meeting a [Portuguese] carrack worth one and a half million crowns, they would let it go, even if it was at their mercy.” Oldenbarnevelt did not feel that he asked for anything more than Henry IV and James I had demanded in their negotiations with Spain. Contrary to Richardot’s allegations, the treaties of Vervins and Somerset House did not so much as mention an Iberian monopoly of the Indies trade, leaving the French and English claims entire. The subjects of Henry IV and James I were free to sail and trade beyond the Line, albeit at their own risk. They had exercised this right enthusiastically. Oldenbarnevelt noted that it was only two months ago that the Parliament of Paris had declared an Iberian ship good prize that had been captured beyond the Line. He was equally unimpressed by Richardot’s argument that the Kings of Spain and Portugal had “privately possessed” the East and West Indies “for over a hundred years.” His compatriots had enjoyed *possessio* for twelve years already, in the knowledge that the law was on their side—the law of nations, civil law, and the law of war (*jus gentium, jus romanum, jus belli*), to be precise. Presumably, there was no need to remind Richardot that commerce itself was grounded in the law of nations. The VOC had every right to conclude trade agreements with Asian princes, who were fully sovereign and independent, because “most countries in the Indies did not know the King of Spain and Portugal.” Although in peaceful possession at first, the Dutch soon had to defend their allies and themselves against Iberian attack. That was why the VOC kept forty-two ships and six thousand men personnel in the East Indies. Its Asian assets amounted to thirty million guilders, which had been acquired with much “danger, cost and effort.” The Company was entirely justified to uphold its “liberty and right,” if only because it had paid such a high price for commercial and military success overseas. Spanish demands for a Dutch withdrawal from the East

Indies violated both the “freedom of these provinces” and the Eight Months’ Armistice, which formed the basis of the peace talks. An important strand in the cease-fire agreement was the *uti possidetis* principle, which effectively froze the military and naval situation of April 1607. The Spanish demands were a gross violation of the negotiations’ ground rules, both regarding “the country’s sovereignty” and the military and naval *status quo ante*, which left each party “in possession of whatever he already has.” For good measure, Their High Mightinesses also declared the Spanish demands to be “against nature, the laws common to all nations, and the laws of war.” Needless to say, these uncompromising arguments failed to convince the Archdukes’ representatives. On 23 February 1608, a long and awkward silence ensued at the conference table, “each looking at another.” The question of the Indies trade had brought the peace talks to a grinding halt.⁶¹

It was Grotius’ memorandum that the Dutch Estates General consulted in order to find a way out of the impasse. On 27 February 1608, the Archdukes’ representatives were asked to express a preference for either peace or truce or war beyond the Line. Two of these options had already been discussed at length in Grotius’ memorandum. If Philip III rejected freedom of trade and navigation, the VOC should observe the peace in Europe, but continue to engage his forces in Asian waters and the South Atlantic. Grotius realized that it was the most likely outcome of the negotiations. The Archdukes’ representatives did not take the bait, however. Their first choice was a truce in the East Indies, which they equated with the indemnity already offered to the VOC. If the Archdukes’ representatives had their way, the VOC could stay in business for a few more years, but would

⁶¹ *Johan van Oldenbarnevelt: Bescheiden betreffende zijn staatkundig beleid en zijn familie* ed. A.J. Veenendaal (The Hague: Martinus Nijhoff, 1962) Vol. II: 1602–1613 (RGP 108) pp. 185–190, 192; Du Bois, *Diplomatische Berichte an den Fürsten Ludwig zu Anhalt* Vol. II pp. 218–219 (Philibert du Bois to Prince Ludwig zu Anhalt, 15 February 1608); Dillen, *Het oudste aandeelhoudersregister* p. 48; *Resoluitien der Staten-Generaal, Vierdiende Deel, 1607–1609* (RGP 131) p. 374 (footnote 1).

Oldenbarnevelt discussed the Somerset House Treaty with Edward Conway, lieutenant governor of Brill (*Den Briel*), when the latter visited The Hague sometime in February 1608. Conway wrote to Oldenbarnevelt on 7/17 March 1608, and enclosed a copy of King James’ explication of the Somerset House Treaty, “in answer to and for the satisfaction of the Lower House of Parliament.” The letter and its enclosure are printed in *Johan van Oldenbarnevelt: Bescheiden betreffende zijn staatkundig beleid en zijn familie* Vol. II p. 239.

then have to withdraw from the East Indies entirely. This was not exactly what Oldenbarnevelt had in mind. According to Jeannin, he desired trading privileges for the VOC for another fourteen years at least. Their High Mightinesses were decidedly unwilling to disband the Company before the expiration of its charter. Instead, they favored either freedom of trade and navigation in perpetuity, or an arrangement whereby Dutch merchants would trade in the East Indies at their own risk (e.g., a continuation of the war beyond the Line). Although Oldenbarnevelt was willing to strike a deal with the Archdukes' representatives, he categorically refused to commit himself to a Dutch withdrawal from the East Indies. As he explained to Richardot, an armistice beyond the Line could not prejudice the rights of either party. Ideally, both sides should meet sometime before its expiration to negotiate a definitive settlement for the Indies trade. The Archdukes' representatives took their time to study Oldenbarnevelt's proposals, only to dismiss them in a meeting with the Dutch negotiators on 4 March 1608. There could be no truce in the East Indies unless Their High Mightinesses promised to prohibit Dutch trade and navigation beyond the Line at its expiration. Jeannin's timely intervention prevented a collapse of the peace talks at this point.⁶²

The French envoy did not have much room for maneuver, but he had some. Jeannin reported his efforts at mediation in letters to the French court of 27 February and 7 March 1608. Together with his English colleagues, he was consulted twice by Their High Mightinesses in late February about the looming deadlock in the peace talks. He had taken the opportunity to suggest a makeshift solution. He had asked Their High Mightinesses to put the question of the Indies trade aside for the moment and concentrate on other outstanding issues, pending new instructions from Henry IV. Until he received these, so he argued, he could not in good conscience advise them either to abandon a trade which they considered essential for the welfare of the state, or to stick to their guns and risk a collapse of the peace talks. His point was well taken. When the Archdukes' representatives summarily dismissed their proposals for a

⁶² *Johan van Oldenbarnevelt: Bescheiden betreffende zijn staatkundig beleid en zijn familie* Vol. II pp. 193–195; Jeannin to Villeroy, 27 February 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II p. 140; *Resolutiën der Staten-Generaal, Viertiende Deel, 1607–1609* (RGP 131) pp. 380–381.

truce in the East Indies, the Dutch negotiators neither pursued the matter, nor broke off the peace talks.⁶³

Meanwhile, Jeannin wrote to Henry IV for new instructions and tried to obtain some concessions from Richardot. In his view, it was only fair and equitable that, if peace was declared in Europe, the VOC should be allowed to remain in business for the remaining fourteen years of its charter. Alternatively, Philip III could observe a shorter truce in the East Indies and permit Dutch merchants to trade there for just six years, provided that negotiations for a definitive settlement were resumed two years before its expiration. Another possibility was a peace treaty that gave official recognition to Dutch trade in the East Indies, on the condition that it remain strictly limited to territories that were already in the possession of the VOC. Yet for all these imaginative solutions, the French envoy had little hope of a compromise between the two sides.⁶⁴

Jeannin did not have to look far for an explanation. He realized that the King of Spain and Portugal had little to gain from a peace treaty that failed to exclude Dutch merchants from the Indies trade. If Philip III made concessions to Their High Mightinesses, the French and English monarchs would expect him to condone their subjects' trade and navigation beyond the Line as well. Nor could he be faulted for his apprehension at Dutch commercial prowess. Jeannin believed that the Indies trade would soon be more profitable for the Dutch than for the Portuguese, especially if the VOC directors decided to barter European goods for Asian spices, instead of spending silver reals-of-eight. The Company already enjoyed a big fiscal advantage in comparison with its Iberian competitors: the Dutch Estates General did not tax the Indies trade at all, while Philip III charged twenty percent or more. The monarch was caught between a rock and a hard place: if he abolished these imposts to make Portuguese merchants more competitive, he would be left with precious little income from his colonial empire. These considerations made it extremely unlikely that freedom of trade and navigation would ever be acceptable to Philip III. Richardot was equally unenthusiastic

⁶³ *Resolutiën der Staten-Generaal, Vertiende Deel, 1607–1609* (RGP 131) pp. 375–380: Jeannin to Villeroy, 27 Feb. 1608, and Jeannin to Henry IV, 7 March 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II pp. 140, 147–150.

⁶⁴ Jeannin to Henry IV, 7 March 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II p. 147.

about Jeannin's proposal for a six-year truce in the East Indies. He made it crystal clear that it entailed a truce in Europe as well, something that Philip III had desired all along. The most equitable solution was, of course, a peace treaty that allowed the VOC to remain in business until the expiration of its charter. Jeannin knew that he had Oldenbarnevelt's support on this point, but was less sure about the Archdukes' representatives. The envoy realized that fourteen years was little short of eternity in the world of politics and that the Dutch might consider the Indies trade still "very useful" afterwards. If both parties accepted his proposal, and it was a big if, Jeannin envisioned a secret treaty stipulating a Dutch withdrawal from the East Indies after fourteen years, while the official peace treaty would not mention the Indies trade at all. Things turned out very differently, however. Even Jeannin's ingenuity was no match for the quick pace of events.⁶⁵

On 10 March 1608, the Dutch Estates General suddenly demanded from the Archdukes' representatives a "complete and absolute resolution" of the question of the Indies trade. Oldenbarnevelt proposed a truce in the East Indies that would last between nine and fifty years (sic!) and that would not require a Dutch withdrawal at its expiration. The Archdukes' representatives could hardly have expected this three days earlier, when they had asked Oldenbarnevelt to formulate a new proposal. They had made their request out of a desire to conciliate, not embolden, the Dutch Estates General, but this had clearly backfired on them. In reply, they repeated that they could not make peace without obtaining assurances of a Dutch withdrawal from the East Indies. The only other option was a worldwide armistice of several years. The seeds of the Twelve Years' Truce had been planted in the minds of the negotiators.⁶⁶

Richardot's counter proposal seemed the best solution to Jeannin as well. All parties involved in the negotiations stood to gain from a long truce in Europe and elsewhere, lasting ten to fifteen years. It would safeguard the economic interests of Holland and Zeeland and also be advantageous for Prince Maurice and Henry IV. The Dutch Estates General could not do without a sizable army and an

⁶⁵ Ibidem pp. 152–153.

⁶⁶ Jeannin to Henry IV, 12 March 1608, printed in *Les Négociations de monsieur le President Jeannin* Vol. II p. 167; *Johan van Oldenbarnevelt: Bescheiden betreffende zijn staatkundig beleid en zijn familie* Vol. II pp. 197, 199; *Resolutiën der Staten-Generaal, Vertiende Deel, 1607–1609* (RGP 131) pp. 387–388.

experienced field commander like Prince Maurice. Henry IV should be well served by his Dutch allies if he decided to declare war on Philip III in future years. The French monarch agreed with Jeannin's analysis of the situation in his letter of 19 March 1608. To be sure, a peace treaty would be more prestigious for the Dutch Estates General. Yet it was not worth sacrificing the Indies trade for—Henry IV had learnt that much from his envoy's letters. Jeannin, on his part, had no illusions about the difficulties that still lay ahead. Their High Mightinesses might well insist on a full and unconditional recognition of their sovereignty and independence, which Philip III was unlikely to grant as part of a truce treaty. A royal 'no' would take the negotiators back to square one. In that case, Jeannin might have to persuade Their High Mightinesses to accept a less-than-perfect peace treaty, which would permit Dutch trade in the East Indies for the remaining fourteen years of the VOC charter, but not a single day more. This was not an attractive scenario either. Jeannin feared that the negotiations would remain deadlocked for quite some time.⁶⁷

Imagine Jeannin's surprise when he learnt on 14 March 1608 that Richardot had asked Oldenbarnevelt to prepare a separate agreement for a nine-year truce in the East Indies. Richardot admitted that he himself could not authorize a cessation of hostilities outside of Europe for a single day, let alone nine years, but offered to take the treaty to Spain and do his utmost to obtain the King's consent, all for the sake of peace. The Archdukes' representatives had clearly made a major concession. They had dropped their demand for a prohibition of Dutch trade and navigation beyond the Line. Oldenbarnevelt had given them little more than a sop in return. His draft agreement arranged for final-status negotiations at Antwerp or Brussels two years before the truce's expiration, which was hardly a serious commitment for Their High Mightinesses and failed to oblige the VOC in any way. Oldenbarnevelt cleverly argued, however, that peace in Europe and a nine-year truce in the East Indies would encourage Dutch merchants to shed their "diffidence" towards Philip III and reestablish a profitable trade with the Iberian Peninsula, which should make the VOC redundant. Yet he did not have it

⁶⁷ Jeannin to Henry IV, 12 March 1608, Jeannin to Villeroy, 14 March 1608, and Henry IV to Jeannin, 19 March 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II pp. 169, 171, 174, 192–193.

all his way. The Archdukes' representatives insisted that the Indies trade be omitted from a peace treaty proper, just like it had been in the treaties of Vervins and Somerset House. A nine-year truce in the East Indies would otherwise be unacceptable to Philip III. The King's response to the draft agreement was indeed the big question mark.⁶⁸

Jeannin remained skeptical about the political U-turn of the Archdukes' representatives. In his letter to Henry IV of 15 March 1608, he expressed the fear that Richardot and Spinola played along with the Dutch Estates General for no other reason than to prolong the current cease-fire before the start of the summer campaign season. The bankrupt Spanish Crown had everything to gain from, and nothing to lose by, a postponement of the hostilities for yet another year. Henry IV shared the reservations of his envoy. The Archdukes' representatives might well have acted out of ulterior motives when they accepted Oldenbarnevelt's proposal for a nine-year truce in the East Indies. The King suspected that they would first drag out the proceedings "to divide those provinces, both by means of bribes and otherwise," and then offer only a meagre truce "that will trouble not only those provinces, but also their friends and allies."⁶⁹

Both the King and his envoy realized that this might not be the whole story. After some reflection, Henry IV was willing to give the Archdukes' representatives the benefit of the doubt. Their enthusiasm for a nine-year truce in the East Indies was entirely understandable considering the dearth of "money and people" in Spain and Flanders, the "losses" suffered in the Indies, and the "troubles" resulting from the delayed departures and arrivals of the Indies fleets, "which are the mainstay of their state." Jeannin reached the same conclusion as Henry IV. The Archdukes' representatives were decidedly unwilling to break off the negotiations on the issue of the Indies trade. They seemed determined, in fact, to smooth over the hard edges of Oldenbarnevelt's proposals. There was no doubt in Jeannin's

⁶⁸ Jeannin to Henry IV, 15 March 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II pp.181-182; *Resolutiën der Staten-Generaal, Viertiende Deel, 1607-1609* (RGP 131) pp. 389-390.

⁶⁹ Jeannin to Henry IV, 15 March 1608, and Henry IV to Jeannin, 31 March 1609, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II pp. 182, 218.

mind that they tried to make the compromise as palatable to Philip III as they possibly could.⁷⁰

The Archdukes' representatives changed Oldenbarnevelt's proposals at various points before they dispatched Father Neyen to the Spanish court on 31 March 1608. (Although Richardot had offered to go himself, it was Neyen who eventually discharged this sensitive mission.) Richardot was not at all pleased, for example, with a draft article that Oldenbarnevelt had submitted on March 17th for inclusion in the peace treaty proper. The draft article proclaimed the peace in Europe to be "eternal and inviolable," regardless of what happened beyond the Line. Yet Richardot did not want the Indies trade mentioned in the peace treaty proper, not even indirectly. He was equally appalled by the article's suggestion that peace in Europe would be accompanied by hostilities beyond the Tropic of Cancer. The Archdukes' representatives found fault as well with the draft agreement for a nine-year truce in the East Indies. When they met with Oldenbarnevelt on March 20th, they complained that it "demands in a general manner this commerce beyond the Tropic of Cancer, which comprises the West Indies as well as the East Indies." Yet their greatest concern was clearly the political, military and economic interests of the *Estado da India*. They insisted that Oldenbarnevelt include a provision forbidding Dutch merchants and mariners "to go to any places presently occupied by the Portuguese." The draft agreement was still heavily in favor of the VOC. If Oldenbarnevelt had his way, the Portuguese could attempt nothing against either the VOC or any of the "Potentates, Kings, Princes, Republics, towns, islands and places in the Indies" that were considered its friends and allies. This particular provision had undoubtedly been inspired by Grotius' memorandum, which emphasized the natives' vulnerability to Habsburg attack. The Archdukes' representatives were irked by its inclusion in the draft agreement, but refrained from lodging an official complaint.⁷¹

⁷⁰ Jeannin to Villeroy, 29 March 1608, Henry IV to Jeannin, 31 March 1609, and Jeannin to Henry IV, 1 April 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II pp. 211–212, 218, 228.

⁷¹ Du Bois, *Diplomatische Berichte an den Fürsten Ludwig zu Anhalt* Vol. II p. 231; *Johan van Oldenbarnevelt: Bescheiden betreffende zijn staatkundig beleid en zijn familie* Vol. II pp. 201–203; *Resolutiën der Staten-Generaal, Viertiende Deel, 1607–1609* (RGP 131) pp. 398–399.

Oldenbarnevelt, for his part, was quite willing to accommodate the Archdukes' representatives in the meeting of 25 March. There were some limits, of course. He could not countenance any changes in his proposals that would impair freedom of trade and navigation or otherwise contravene VOC interests. He recognized that *possessio* conferred the right to regulate commerce, and that the draft agreement for a nine-year truce in the East Indies needed to be revised accordingly. At Richardot's instigation, he included a provision forbidding either side to visit ports, towns or strongholds in Asia "actually possessed" by the other party, except in cases of emergency or with special permission of the local authorities. It seemed a small price to pay for Spanish recognition of the principle of actual possession. Yet the Archdukes' representatives were still not satisfied with the draft agreement for a nine-year truce in the East Indies, and its corresponding article in the peace treaty. Oldenbarnevelt had to make further changes in the treaty article's geographical references. According to the revised treaty article, hostilities would cease in Europe and elsewhere, down to the latitude of the Canary Islands, including "other places where the Dutch traded and navigated before this war, or had the right to trade and navigate." His revisions utterly failed to placate Richardot. The reference to the Canary Islands suggested that armed conflict might continue outside Europe, a notion fundamentally at odds with a peace treaty. The passage "had the right to trade and navigate" seemed an explicit justification of Dutch trade and navigation beyond the Line, which would be unacceptable to Philip III. Again Oldenbarnevelt was happy to meet Richardot's wishes: he erased the objectionable words from the treaty article on March 29th. It was a cosmetic change that left the rights of the VOC entire, yet saved the negotiations. Two days later, Father Neyen was on his way to Spain to obtain the King's consent for a nine-year truce in the East Indies.⁷²

It was Richardot who still had grave misgivings about the outcome of Neyen's journey. He visited Jeannin on Easter Day for the sole purpose of venting his anger and frustration. Philip III would never accept Oldenbarnevelt's proposals, which mixed "war, peace and truce all together." The peace in Europa was supposed to be

⁷² *Resolutiën der Staten-Generaal, Viertiende Deel, 1607–1609* (RGP 131) pp. 397, 399, 403–406; *Johan van Oldenbarnevelt: Bescheiden betreffende zijn staatkundig beleid en zijn familie* Vol. II pp. 202–204, 207–208.

inviolable, regardless of what happened overseas for a period of nine years. Worse, the truce would not take effect in the East Indies until a year and a half after the signing of a peace treaty, which gave the VOC plenty of time to “commit all kinds of hostilities.” If Oldenbarnevelt had his way, the Company could even keep everything it captured from the Portuguese in those intervening months. In Richardot’s view, the Dutch Estates General simply did the bidding of the VOC directors, who

pretend to have incurred great expenses by putting forth warships and hiring a large number of soldiers, in the expectation that they would recover this outlay by the capture of prizes, of which they will be frustrated if this [eighteen-month] interlude is not accorded them.⁷³

Richardot proved to be right in his presentiments. Philip III could not be persuaded of the merits of Oldenbarnevelt’s proposals for a nine-year truce in the East Indies. He indignantly wrote to Archduke Albert on 15 July 1608, that “he would not grant the Dutch the right to trade for a single day, let alone for such an inordinate and unnecessary amount of time.” When his revised instructions reached Richardot and Spinola in The Hague in the middle of August, they had no choice but to inform Jeannin that the King insisted on a Dutch withdrawal from the East Indies and freedom of worship for Dutch Catholics. The latter demand had been kept carefully under wraps since the beginning of the negotiations—the Archdukes’ representatives realized that freedom of worship for Dutch Catholics would be absolutely unacceptable to Their High Mightinesses. And so it turned out to be. The peace talks were effectively at an end when Richardot divulged the monarch’s new instructions to Jeannin and Oldenbarnevelt. The negotiations for the Twelve Years’ Truce started a week later, on 27 August 1608.⁷⁴

Few members of the Dutch Estates General could have predicted this outcome when Neyen set out for the Spanish court on 31 March 1608. As Jeannin noted, most of them had been in a triumphant mood at the time of Neyen’s departure, utterly convinced of their own ascendancy over Philip III and the Archdukes. According

⁷³ Jeannin to Villeroy, Easter Day 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II pp. 235–236.

⁷⁴ As cited by Allen, *Philip III and the Pax Hispanica* p. 218; Den Tex, *Oldenbarnevelt* trans. Powell pp. 393–394.

to their calculations, the Dutch Republic could have peace on its own terms, and soon. Neyen had been expected to return to The Hague within three months, carrying the King's ratification of the nine-year truce in the East Indies, of course. Although this assumption proved to be entirely mistaken, it had important consequences for the VOC.⁷⁵

The breezy optimism of Their High Mightinesses was sufficient reason for the VOC directors to make arrangements for a possible truce in the East Indies in late March 1608. Richardot was quite right to distrust the latter's interpretation of Oldenbarnevelt's proposals. They had every intention of changing the situation on the ground prior to the implementation of a nine-year truce in Asia. New instructions were sent posthaste to VOC commander Pieter Willemszoon Verhoef, which reached him in February 1609. Verhoef was told to put commerce and trade aside for a while and concentrate on enlarging the Company's sphere of influence in Asia. Under the terms of the proposed truce, the criterium of actual possession would determine whether and where the VOC could monopolize trade at the expense of the Portuguese. In concrete terms, this meant that Verhoef would have to establish Dutch fortresses in the Spice Islands, and make or renew as many alliances with native rulers as he possibly could, before the truce took effect. As Richardot had feared, Oldenbarnevelt's proposals only served to accelerate the rise of Dutch power in the East Indies. Grotius' theorizing on freedom of trade and navigation, including the restrictions that contracts and actual possession imposed upon it, had become politically respectable as a result of the peace negotiations. No wonder, then, that the VOC directors instructed Verhoef accordingly. The practical consequences of Grotius' natural rights and natural law theories are indeed best understood by examining Verhoef's eventful voyage to the East Indies, which ended in tragedy for the VOC commander.⁷⁶

⁷⁵ Jeannin to Henry IV, 15 March 1608 and 1 April 1608, and Jeannin to Villeroy, Easter Day 1608, printed in *Les Negotiations de monsieur le President Jeannin* Vol. II pp. 183, 228, 235–236; Den Tex, *Oldenbarnevelt* trans. Powell p. 388

⁷⁶ Dutch National Archives, VOC 477 (VOC directors to Pieter Willemszoon Verhoef, 29 March 1608), VOC 478 & 479 (Instructions for VOC officers in the East Indies, 10/11 April 1608); Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef naar Azie* p. 6.

4.4 *The Voyage of Willem Pieterszoon Verhoef to the East Indies
(1607–1609)*

On 29 March 1608, the Gentlemen XVII wrote a long letter to Pieter Willemszoon Verhoef, the commander of the VOC fleet that had sailed in December 1607. The letter discussed the peace negotiations in The Hague and the possibility of a nine-year truce in the East Indies. A copy of Oldenbarnevelt's proposals was enclosed as well. On the spur of these fastmoving political developments, the Gentlemen XVII had decided to issue new orders to the Company's senior merchants and commanding officers. A fast-sailing yacht left Amsterdam in early summer and caught up with Verhoef's fleet on 10 February 1609. Verhoef was instructed to a) renegotiate all existing treaties with indigenous rulers and peoples, and b) send copies to the VOC directors as soon as possible. Ideally, the Company's allies should be included *by name* in the proposed nine-year truce, thus securing their safety from Portuguese attack. The new orders could hardly be called innocuous. The Gentlemen XVII urged Verhoef to establish Dutch strongholds in the East Indies wherever he could, provided the indigenous allies gave him permission to do so. Fortresses would provide physical security to both the Company's personnel and its allies, and reassure the latter that

we will always remain in good friendship with them and never join the other side, but always protect them against Portuguese wrongdoing as much as it lies within our power.

Under the terms of the proposed armistice, the Company's commercial interests were best served by the establishment of Dutch strongholds and garrisons, which were definite proof "that we have the possession, not the Spanish and Portuguese." Both from a military and legal standpoint, only fortifications could deny the Portuguese the right to visit the surrounding areas or trade there. As the Gentlemen XVII noted,

In the principal places where you conclude friendships and alliances, we recommend that you establish fortresses with the consent of the Indians, in order that we may secure these places and defend them as our possessions, keeping their trade for ourselves alone and excluding the Portuguese and all others.

Ironically, Oldenbarnevelt's proposals for peace in Europe and a nine-year truce overseas precipitated the establishment of a Dutch

territorial empire in the East Indies, not for its own sake, but as an outgrowth of the Company's commercial interests. The VOC directors preferred to monopolize the trade in mace, nutmeg, and cloves *prior to* the implementation of an armistice, which would freeze the status quo in Asia. They made it clear to Verhoef that they expected him to act before it was too late and maximize the number of places in the Spice Islands controlled by the Company's military and naval forces.⁷⁷

For all their talk of freedom of trade and navigation, it was hardly surprising that the VOC directors should desire a monopoly of the spice trade. Theirs was not a free-trade era. The Portuguese had monopolized the maritime route to Asia and dominated the European market for pepper and spices for the better part of the sixteenth century. The VOC's monopolistic tendencies were already present in its charter, drawn up by Oldenbarnevelt himself. Apart from the VOC, no Dutch merchants could either navigate or trade between Magellan Straits and the Cape of Good Hope. The Company went one step further during the Twelve Years' Truce: it sought to monopolize the trade in cloves, nutmeg and mace by barring all other merchants—whether English, Portuguese, or indigenous—from the centers of production, the Spice Islands.⁷⁸

It is important to keep in mind the differences between the Portuguese and Dutch positions. The VOC directors never entertained Portuguese-style notions of dominion, that is the claim to literally own the vast regions beyond the Cape of Good Hope, which the Portuguese justified on the basis of their discovery of the Cape

⁷⁷ *Ibidem*.

Contemporaries regarded fortifications as nuclei of sovereignty, although they argued over its spatial extent—the range of a castle's guns was one yardstick for the area of control, tributes levied in the countryside another. As regards the Dutch fortress Victoria at Ambon, the VOC argued that its capture from the Portuguese in 1605 gave it full sovereignty over the Ley-Timor Peninsula. Since the VOC also happened to have exclusive trading agreements with the people of Hitu, it believed to have a strong case for barring the English East India Company from Ambon. The EIC disagreed, of course. It made various attempts to establish trading posts at Ambon during the Twelve Years' Truce.

⁷⁸ Boyajian, *Portuguese Trade in Asia under the Habsburgs* pp. 1–28; M.A.P. Meilink-Roelofs., *Asian trade and European influence in the Indonesian archipelago, 1500–1630* (The Hague, 1962) pp. 173–294; Els M. Jacobs, *Koopman in Azië: de handel van de Verenigde Oost-Indische Compagnie tijdens de 18de eeuw*. (Zutphen: Walburg Pers, 2000) pp. 19–72; Borschberg, “Hugo Grotius' Theory of Trans-Oceanic Trade Regulation: Revisiting *Mare Liberum* (1609)' *passim*.”

route, various papal bulls, and the treaty of Tordesillas (1494). In principle, the VOC directors did not deny anyone the freedom of trade and navigation in the East Indies, which correlated nicely with Grotius' teachings on the primacy and inviolability of natural law. In endorsing Grotius' theories, they did not act out of idealism, of course, but out of self-interest. They had no intention of limiting their business to the Spice Islands and needed freedom of trade and navigation to build a far-flung commercial empire, which stretched all the way from Yemen to Japan by 1630. Even in the second half of the seventeenth century, when the Company was at the height of its power, it had to compete with other European and indigenous merchants in most Asian markets. The trading system of the Indian Ocean was just too vast and complex for anyone to control, even for the mighty VOC.⁷⁹

The Gentlemen XVII had to keep this in mind when formulating a new policy for the Spice Islands. They agreed with Grotius that contracts and actual possession could conveniently limit the freedom of trade and navigation. It is easy to see why. Actual possession allowed the Company to regulate trade and travel in the areas under its control—usually measured in terms of the range of a canon, fired from one of its ships or fortresses. Contracts arranged the transfer of moveable or immovable property from one person (or group) to another, specified the obligations of both the seller and buyer, and prevented a third party from laying its hands on the goods in question. This was not just a question of legal theory. The sophisticated

⁷⁹ Patricia Seed, *Ceremonies of Possession in Europe's Conquest of the New World, 1492–1640* pp. 100–148; Boxer, *The Portuguese Seaborne Empire* pp. 21–23; E.N. van Kleffens, 'Over zes brieven uit het bezit van Hugo de Groot', *Mededelingen der Koninklijke Nederlandse Akademie van Wetenschappen, Afdeling Letterkunde* (Nieuwe Reeks) 23, no. 16 (1960) pp. 449–491, especially pp. 469–475.

At the Anglo-Dutch colonial conferences of 1613 and 1615, Grotius explicitly justified the Company's trading empire on the basis of contract theory and freedom of trade and navigation. Compare G.N. Clark, "Grotius's East India Mission to England," *Transactions of the Grotius Society* 20 (1935) pp. 45–84; Eysinga and Clark, *The Colonial Conferences between England and The Netherlands in 1613 and 1615*, passim.

At the turn of the eighteenth century, English policy makers and political theorists faced a similar ideological predicament as the VOC directors. John Selden's concept of *mare clausum* was quietly dropped in favor of the Grotian notion of *mare liberum*. The fast growth of the English overseas empire, particularly in the Americas, simply made it undesirable to claim a dominium of the seas. Compare David Armitage, *The Ideological Origins of the British Empire* (Cambridge: Cambridge UP, 2000) pp. 100–124.

market economy of Holland and Zeeland relied on a wide variety of contracts for its smooth functioning, and so did the VOC. A seller could give one particular buyer the right of first refusal, for example, or enter into an exclusive business partnership with him or her, to the detriment of other potential buyers. Alternatively, a seller could promise the buyer to deliver the goods at a specified future date, in which case the seller might ask for an advance. Payments could be made in a variety of ways, which included the transfer of goods or services from the buyer to the seller. Dutch merchants had utilized this wide range of contracts and payment methods from the moment they arrived in the East Indies in 1595. The right of pre-emption, for instance, had figured prominently in Dutch trade agreements with Asian princes and peoples ever since the First Voyage. It could not always be exercised, though: temporary shortages of silver coin were a recurrent phenomenon, which tied the hands of Dutch factors. By 1609, the VOC had nevertheless become the main creditor of the indigenous peoples of the Spice Islands, who had anticipated their harvests for many years. This happened for two reasons. Since the natives could not produce their own food and clothing, Dutch factors either lent them money to buy rice, sago and Indian cottons from Javanese traders, or provided the food and clothing themselves, all on the security of future spice harvests, of course. Dutch military and naval assistance did not come for free either. When the Portuguese were ousted from Ambon and the Moluccas in 1605, the victorious VOC commanders obliged local leaders to pay for their own liberation. Both Captain Hitu at Ambon and the Sultan of Ternate signed contracts that made the Company their perpetual and exclusive customer. It was a most effective way of limiting freedom of trade and navigation, especially when the VOC could back up the contracts with naked force.⁸⁰

The VOC did not gain a monopoly of the spice trade simply by relying on the business practices of private merchants. By virtue of its charter, the VOC could sign contracts and alliances with Asian princes in the name of the Dutch Estates General. In Asia, the Company would soon become a state in its own right, like the *Estado*

⁸⁰ Eysinga, *The Colonial Conferences between England and The Netherlands in 1613 and 1615* pp. 118–119; Stapel, *Geschiedenis van Nederlandsch Indië* Vol. III pp. 50–51; Meilink-Roelofs., *Asian Trade and European Influence* pp. 195–222; Heeres, 'Corpus Diplomaticum Neerlandico-Indicum' (Part I, 1596–1650) pp. 11–14, 31–36, 50–53.

da India. This explains the nature of the contracts and their, at times, brutal enforcement by the VOC. Alliances between two sovereign entities, such as the VOC and the Sultan of Ternate, could be conceived as perpetual, at least on paper. Whether a treaty was observed to the letter, or only in the breach, depended on the power differential between the signatories and their allies and adversaries. The United Provinces could repudiate “perpetual” alliances with impunity throughout the seventeenth century, thanks to its own military prowess and Europe’s ever-changing balance of power. The miniscule Spice Islands were no match for the mighty Company, however. Try as they might, the Ambonese, Bandanese and Moluccans could not rid themselves of the VOC without substantial support from another European power. The English East India Company fulfilled that role for a while, but ultimately failed to dislodge the VOC from the Spice Islands, with disastrous consequences for the inhabitants.⁸¹

A Dutch conquest of the Spice Islands was not on the cards when the VOC directors revised their instructions for Verhoef in April 1608. At that point, the Company had very little control over local producers. Dutch factors were powerless to prevent the Bandanese, and to a lesser extent, the Ambonese, from selling spices to the highest bidder, usually Javanese and English merchants. The directors were aware of this problem, but blamed their European competitors, not the natives. They were confident that the VOC’s superior financial resources would prove no match for the English. The directors urged Verhoef to buy up the entire harvest of cloves, nutmeg, and mace,

⁸¹ Meilink-Roelofs., *Asian trade and European influence* pp. 173–294.

The situation in the Spice Islands was complicated by Dutch claims of sovereignty, which were first asserted at Ambon, following the conquest of the Portuguese fortress in 1605, and subsequently in the Banda Islands, following Coen’s punitive expedition of 1621. It is important to realize that the VOC commanders initiated this ideological change, not Grotius or the VOC directors. In November 1606, Grotius drafted for the VOC directors a whole set of letters addressed to their Asian allies. Judging by Grotius’ mode of address, the VOC directors had clearly accepted his premise, fundamental to *De Jure Praedae* and *Mare Liberum*, that their allies in the East Indies were full-fledged sovereigns. In every other respect, the letters were little more than polite thank-you notes. Grotius urged some allies to set aside their quarrels for the sake of the common cause, while entreating others to grant the VOC extensive trading privileges as a *quid pro quo* for the protection that they received against possible Portuguese attack. Grotius’ letters were sent to Asia aboard the advice ship Gouda, which sailed in January 1607. They ended up in the hands of VOC commander Paulus van Caerden, who totally disapproved of their contents. When he wrote to the Gentlemen XVII on 8 May 1608, he loudly

and to renew the VOC's contracts and alliances with the islanders. The resurgence of Iberian military power in the Moluccas called for a different approach. It was imperative to dislodge the Spanish and Portuguese from the Moluccas before the proposed armistice would take effect on 1 September 1609. As the directors pointed out to Verhoef, "neither the King of Spain, nor any of his subjects may visit, or trade in, those places in Asia or Africa where we have possession or exclusive contracts with other nations." Fortresses—proof of 'actual possession'—should be established with the explicit consent of the natives. All this fell far short of a conquest of the Spice Islands and the subjection of its peoples. The directors' aims were modest enough: they sought to strengthen the Company's position in the Indies trade under the terms of the nine-year truce. Conquest was hardly a viable option for Verhoef, considering the paucity of his troops. Indeed, he would be lucky not to lose the Moluccas entirely. A Spanish expeditionary force had laid waste Tidore and Ternate in 1606, and established strongholds on both islands. The most loyal allies of the VOC, the inhabitants of Ternate, had even been forced to flee to the barren, and uninhabited, island of Gilolo. Unless its commanders reversed these Spanish successes, the VOC could kiss goodbye to its trade in the Moluccas, perpetual contracts and anticipated harvests notwithstanding. Verhoef's immediate predecessors—Cornelis Matelief Jr. and Paulus van Caerden—had maintained little more than a toehold in the Moluccas. Armed with new orders from the Gentlemen XVII, Verhoef was ready to pick up where they had left off, but died an untimely death in the Banda Islands on 22 May

complained about the fact that Grotius' letters addressed the Ambonese as a "free people" and "Lords of Ambon," instead of mere "subjects" and "vassals." He refused point blank to deliver them to the addressees. It should be noted, however, that Van Caerden did not claim Dutch sovereignty over the entire region. He carefully distinguished between the inhabitants of the Ley-Timor Peninsula, the location of fortress Victoria, and, for example, the villagers of Luhu and Kambelu on the island of Ceram. In his view, the former were subjects of Prince Maurice, known to them as the "King of Holland," while the latter owed fealty to the 'stadtholder' of the Sultan of Ternate, their nominal and distant sovereign.

Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 364r; Paulus van Caerden to the Gentlemen XVII, 8 May 1608, printed in *De derde reis van de V.O.C. naar Oost-Indië onder het beleid van admiraal Paulus van Caerden uitgezeld in 1606* ed. A. de Booy 2 vols. (The Hague; Martinus Nijhoff, 1968 and 1970) Vol. II pp. 142–162; Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef naar Azie* p. 7; Somers, *The Dutch East India Company as an Actor in International Law* pp. 57–74, 143–174.

1609. The dedication with which he executed the thankless task of creating a Dutch monopoly of the spice trade was sufficient reason for the Bandanese to ambush and murder him. Such were the unintended consequences of the Company's attempt at consolidation in the East Indies, its precipitate and maladroit response to Oldenbarnevelt's proposal for a nine-year truce.⁸²

This caesura in VOC history cannot be fully appreciated without a brief look at the first set of instructions that Verhoef received from the Gentlemen XVII, probably in December 1607. Their initial instructions clearly prioritized the Company's offensive against the Portuguese and put relatively little emphasis on the spice trade. Verhoef was under orders to destroy all enemy ships in the roadsteads of Mozambique, Goa, Malacca, Tidore, Ternate and Manila, "and not to leave behind any ships which might attack us or the Indians, our friends." The VOC directors urged him to strengthen the Company's ties with the Samorin of Calicut and the Sultan of Johore, the two archenemies of Goa and Malacca, respectively. If, as rumor had it, Malacca was in Dutch hands, he should establish a Dutch fortress and garrison there, provided he obtained the consent

⁸² Instructions for VOC commanders and officers in the East Indies, dated 10/11 April 1608, *Dutch National Archives*, VOC 478 f. 1v (quotation), 2v.

Verhoef's fleet counted nine warships and four yachts when the commander left Holland on 22 December 1607. The fleet was divided up into several squadrons after its arrival in Bantam on 15 February 1609. Two ships, *Griffin* and *Red Lion with Arrows*, were sent to Japan. François Wittert, Verhoef's second in command, received orders to sail to the Moluccas with four ships, and call at Macassar in order to buy victuals for the Ternatans.

Three ships of the fleet of Van Caerden arrived in the Banda Islands in March 1609, perhaps followed by two yachts of Verhoef's fleet, which had taken in rice at the Javanese port of Grissee. Verhoef himself entered the roadstead of Neyra on 8 April 1609, commanding eight ships and approximately three hundred soldiers. Although the Bandanese believed Verhoef's force to be one thousand men strong, they still outnumbered the Dutch four to one. According to Johann Verken, a German soldier in the service of the VOC, the Bandanese could muster about four thousand warriors.

Verhoef's murder provided the Dutch with a perfect excuse to attack and conquer Neyra. Yet they did not succeed in their attempt to subdue Great Banda, the biggest island of the archipelago. It took twelve years of intermittent warfare to reduce it to obedience.

Compare Stapel, *Geschiedenis van Nederlandsch Indië* Vol. III pp. 63–73, 146–151; *Reisebeschreibungen von Deutschen Beamten und Kriegsheuten im Dienst der Niederländischen West- und Ost-Indischen Kompagnien, 1602–1697* ed. S.P. L'Honoré Naber (The Hague: Martinus Nijhoff, 1930) Vol. II: Johann Verken, *Molukken-Reise, 1607–1612* pp. 76–86; Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef naar Azie, 1607–1612* pp. 92–102.

of Johore's ruler. The creation of a regional anti-Portuguese alliance, including the Sultan of Johore and the Sultan of Aceh, was a high priority for the directors as well, but Verhoef could concentrate on renewing the Company's alliance with Johore if it turned out that Malacca had not surrendered after all. In that case, he should ask the Sultan for permission to build a fortress in his lands in order to "secure the Kingdom of Johore and Singapore Straits." Apart from its strategic value—it would be ideally situated for intercepting Portuguese carracks—the fortress could double as a rendezvous for VOC ships, thus "conserving the Company's money and goods," as well as "the Moluccas trade and everything depending thereupon."⁸³

The VOC directors did not mention the Spice Islands until halfway through the first set of instructions, and largely limited themselves to discussing the strategic situation in the Moluccas, especially in the context of their worldwide war against Philip III. The directors were adamant that Verhoef destroy all Spanish and Portuguese ships found in Moluccan waters, as well as in the roadstead of Manila. He should also make an effort to intercept "ships from Acapulco": the Viceroy of New Spain might well send reinforcements to Tidore by way of the Philippines. The directors were less eager for warfare on land. Verhoef had permission to dislodge the Spanish from the island of Tidore and the fortress of Gan Lamo at Ternate, provided he could do so without too much loss of time and without endangering VOC ships and personnel.⁸⁴

Although trade played a fairly minimal role in the first set of instructions, the VOC directors made special mention of the China trade, which they highly recommended to Verhoef, and the trade in the Moluccas. It was Verhoef's task to acquire as many trading privileges in the Moluccas as possible, which would deliver "all spices in the Company's hands" and deny them to "all other nations," especially the English. On this particular point, the directors' first set of instructions foreshadowed their counter orders of April 1608. Significantly, they admonished Verhoef not to harm the natives in any way, even if the latter were found aboard enemy ships. VOC

⁸³ Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* p. 186; Peter Borschberg, 'Portuguese, Spanish and Dutch Plans to Construct a Fort in the Straits of Singapore, ca. 1584–1625', *Archipel* 65 (2003) pp. 55–88.

⁸⁴ Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* pp. 187–188.

personnel should act with the “reasonableness” and “discretion” that was customary “in a just and public war.” They took a leaf out of *De Jure Praedae* when they explained to Verhoef that it was important to show that

in accordance with the Dutch Estates General’s authorization, the VOC does not use force in order to rob and tyrannize, but for defense and protection. Also, that it targets the common enemy alone, who has attacked both our people and our allied friends in the East Indies, tyrannically perpetrating the greatest hostilities. This Company is therefore forced to do the enemy all possible harm and damage, as it is under an obligation to protect the persons and goods of its own personnel and its friends. Also, in order to procure in good time a peaceful, free and glorious trade in free lands and kingdoms, as stipulated in the Company charter, granted by the Dutch Estates General.⁸⁵

The directors clearly conceptualized the armed conflict in the East Indies as a just war, and were loath to lose the moral high ground. In his treatment of the natives, Verhoef should refrain from anything that remotely resembled the Portuguese penchant for “tyrannically perpetrating the greatest hostilities.” Indeed, the Company considered itself under an obligation to protect “the persons and goods of its own personnel and friends” and, eventually, to procure “a peaceful, free and glorious trade in free lands and kingdoms.” As the Company’s political lobbyist and legal adviser, Grotius could not have agreed more!

When the VOC directors issued their counter orders in April 1608, a Dutch monopoly of the spice trade was at the top of their list of priorities. If a nine-year truce came into effect in the East Indies, the VOC might have to concentrate on its trade in the Spice Islands, which would yield the greatest profits, certainly if “cloves, nutmeg and mace were delivered into our hands alone, and all other nations excluded.” Since the directors had reliable information that the English East India Company had put forth two ships that spring, they urged Verhoef to buy up all the spices he could find, “in order that the English and Portuguese may not import any into Europe and spoil the market for us.” He should sign contracts with “all the villages in the Moluccas and Banda,” regain any positions that might have been lost in the Moluccas, and build fortresses in the most important places “with the consent of the Indians.” The moralistic

⁸⁵ *Ibidem* pp. 186–190.

tone that characterized the first set of instructions had not disappeared completely in the counter orders of April 1608. The directors urged Verhoef to “reassure the Indians that we will always remain good friends with them and never side with the Portuguese to take up arms against them, but always protect them against the wrongs of the Portuguese according to our ability.” Yet Verhoef’s remit could hardly be called straightforward. The directors also expected him to do his utmost “for the Company’s profit and advantage, in order that we may draw as many places and as much trade to ourselves as possible, and keep it for ourselves alone.” The VOC’s attempt at consolidation would prove difficult to reconcile with its heroic self-image—fashioned by Grotius, of course—as protector of the natives, and nowhere more so than in the Banda Islands in the spring of 1609.⁸⁶

It was no unqualified pleasure for Verhoef to carry out both sets of instructions. He strove zealously to meet the demands of the VOC directors, which were contradictory and sometimes outright impossible. The cards were heavily stacked against him. Upon rounding the Cape of Good Hope, Verhoef first sought to revive the VOC offensive against major Portuguese strongholds in the East Indies, which had been pursued with uneven results by the VOC commanders Van der Haghen, Matelief Jr. and Van Caerden. Predictably, Verhoef’s own siege of Mozambique went nowhere in the summer of 1608. When his fleet blockaded Goa and the Malabar Coast that autumn, it failed to capture any rich prizes. Nor was he in a position to emulate Matelief Jr. and besiege Malacca for a second time: the Portuguese had measurably strengthened their defenses after the first Dutch siege in 1606, while the Sultan of Johore denied him the crucial military assistance given to Matelief.⁸⁷

Verhoef was not terribly successful either in his efforts to create close commercial and military ties between the Company and its Asian allies. When he visited the Samorin of Calicut in October

⁸⁶ Dutch National Archives, VOC 478 f. 2 v, 4r.

Alexander Sharpie commanded the *Ascension* and *Union* on the EIC’s Fourth Voyage. He sailed in March 1608. The VOC directors had good reason to be wary of EIC competition in the Indies trade. Large pepper imports from Asia had dislocated European markets in 1606, for example. Compare Foster, *England’s Quest of Eastern Trade* p. 189 and K.N. Chaudhuri, *The English East India Company: The Study of an Early Joint-Stock Company 1600–1640* (New York, 1965) p. 16.

⁸⁷ Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* pp. 59–71.

1608, he could only offer a renewal of the alliance that Steven van der Haghen had concluded with the Samorin four years earlier, much to the disappointment of this indefatigable enemy of Goa. Pressed for time, Verhoef failed to honor the Sultan of Aceh with a personal visit. Although the ruler graciously received a Dutch embassy in November 1608, it did not result in a new treaty or anything remotely resembling the regional anti-Portuguese alliance desired by the VOC directors. The Dutch fortress that they wanted to see established near Singapore Straits was also a non-starter. When Verhoef discussed the possibility with the Sultan of Johore in January 1609, the latter objected forcefully. The Sultan, who was already negotiating a peace treaty with Malacca, declared that neither he nor his people needed this kind of protection against the Portuguese. Verhoef set sail for Java empty-handed. Fortunately, the Pangoran of Bantam seemed more inclined to oblige the VOC. All existing treaties were renewed in February 1609. The Pangoran reaffirmed the Company's trading privileges and offered assurances for the safety of its Bantam factory, in return for Dutch protection against the Spanish and Portuguese. Bantam was in the throes of a vicious war of succession, which meant that the treaty could not have made much difference in practice. All the more reason for Verhoef to proceed to the Spice Islands and carry out the directors' new orders, which had reached him just before his arrival in Bantam.⁸⁸

Verhoef had no intention to put his first set of instructions aside completely. In their letter of 29 March 1608, the VOC directors failed to explicitly revoke their previous orders, which suited Verhoef quite well. Although he understood the need to prepare for an

⁸⁸ Heeres, 'Corpus Diplomaticum Neerlandico-Indicum' (Part I, 1596–1650) pp. 30–31, 53–54, 56–57; Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* pp. 69–79, 82–90; Veen, *Decay or Defeat?* p. 212; Borschberg, 'Portuguese, Spanish and Dutch Plans to Construct a Fort in the Straits of Singapore, ca. 1584–1625' pp. 67–87.

The VOC never lived up to its promises to assist the Samorin in his crusade against Cochin and Goa. Verhoef arranged for two ships to be sent from Bantam to Calicut, but only to trade there.

The Sultan of Johore had already started peace negotiations with the Portuguese when Verhoef arrived at Batu Sawar on 8 January 1609. Malacca had been a constant threat to Johore ever since Matelief broke off his siege in August 1606. Portuguese forces had even besieged Batu Sawar for a short time in 1607. No wonder the Raja had second thoughts about his alliance with the VOC.

imminent truce in the East Indies, he was determined not to let it interfere with other, more bellicose and more profitable pursuits—attacks on the enemy's merchant marine. At Bantam, he made arrangements for two privateering voyages to Japan and the Philippines. The captains of the *Griffin* and *Red Lion with Arrows*, two yachts stationed in Singapore Straits, received orders first to renew the VOC's alliance with the Sultan of Johore and Queen of Patani, and then to sail to Japan to obtain trading privileges there. This was clearly in accordance with the directors' letter of 29 March 1608, but Verhoef harked back to his first set of instructions when he enjoined both captains to capture any Portuguese carrack that they might encounter *en route* for Nagasaki. Verhoef's second-in-command, Wittert, was dispatched from Bantam with similar orders. Although Wittert's ostensible destination was the Moluccas, Verhoef could hardly have expected him to stick to the letter of the directors' revised instructions. Wittert considered himself under no obligation to tie his forces down in the Moluccas. In his view, the Company's interests were better served by a naval blockade of Manila harbor, as the directors had suggested in their first set of instructions. Indeed, he may well have believed that he could kill two birds with one stone. A preemptive strike against Manila should be sufficient to dislodge the Spanish from the Moluccas in accordance with the directors' new orders. By blockading Manila harbor, Wittert imagined that he could both intercept reinforcements from New Spain and disrupt the silk trade between Canton and Manila. He was certainly not the person to pass up an opportunity for privateering. After a brief stay in the Moluccas, he sailed straight to Manila with three warships, a yacht and a longboat, and blockaded its harbor from November 1609 until April 1610, plundering Chinese junks left and right. He had reckoned without Don Juan da Silva, however, the able governor of the Philippines, who attacked the Dutch squadron with a hastily assembled fleet, counting just six vessels, on 21 April 1610. The naval battle soon turned in Da Silva's favor. The Spanish boarded the flagship *Amsterdam*, killing Wittert, and managed to capture the *Eagle* and *Falcon* as well. Only the yacht *Peacock* escaped to the Moluccas, along with the longboat. The Company's offensive in the East Indies had reached a dead end: substantial privateering profits could not disguise the fact that most of its commanders, including Verhoef and Wittert, were singularly unsuccessful in their attacks on major Iberian strongholds. The ports of Mozambique, Goa, Malacca and Manila

were still in the hands of the Spanish and Portuguese, and would remain so for some time to come.⁸⁹

If Wittert's privateering voyage was a disaster, so was Verhoef's own attempt to prepare the Company for an imminent truce and shore up its position in the Banda Islands. The VOC directors paid a high price for burdening him with two sets of instructions. When Verhoef tried to obtain Bandanese approval for the establishment of a Dutch fortress on the island of Neyra, he was ambushed and murdered for his pains. The situation escalated after Verhoef's violent death on 22 May 1609. In revenge, his replacement, Simon Janszoon Hoen, ordered a full-scale invasion of Neyra and conquered the island that summer. It was not sufficient to have one stronghold at Neyra in order to pacify the Banda Islands. If anything, the Dutch military presence was a constant irritant to the Bandanese, and fuelled a devastating civil war, which resulted in their brutal subjection by Governor General Jan Pieterszoon Coen in the spring of 1621. Even then, it took a long time before the Banda Islands produced nutmeg and mace on a regular basis again. The directors only had themselves to blame for carelessly squandering the jewel in the crown of the VOC. None of this would have happened if they had not desired a monopoly of trade in the Spice Islands.⁹⁰

⁸⁹ Opstall, *De Reis van de Vloot van Pieter Willemz Verhoef* pp. 41–42, 89–90, 388–410; Borschberg, 'The Seizure of the *Santo António* at Patani: VOC Freebooting, the Estado da Índia and Peninsular Politics, 1602–1609,' *Journal of the Siam Society* 90 (2002) pp. 59–72; Borschberg, 'Portuguese, Spanish and Dutch Plans to Construct a Fort in the Straits of Singapore, ca. 1584–1625' pp. 74–75; Enthoven, *Zeeland en de opkomst van de Republiek* pp. 202–203.

Wittert arrived in the Moluccas in June 1609 and renewed the Company's alliance with the Sultan of Ternate on 9 August, all in accordance with the directors' second set of instructions. Much to the Sultan's distress, however, Wittert left for the Philippines in September, taking along the warships *Amsterdam*, *Eagle*, *Falcon* and the yacht *Peacock*. On 21 April 1610, Da Silva attacked Wittert's squadron with just two warships, two galleys and two yachts. Wittert's fate did not deter VOC commanders from blockading Manila harbor, or from engaging Da Silva, for that matter, during the Twelve Years' Truce. The lure of privateering was simply too strong.

⁹⁰ To be fair, the Portuguese also tried to improve their strategic position in the East Indies in anticipation of a truce of some sort. Compare Borschberg, 'Portuguese, Spanish and Dutch Plans to Construct a Fort in the Straits of Singapore, ca. 1584–1625' pp. 67–87.

Vincent Loth discusses the historical context of Coen's conquest of the Banda Islands in his article 'Armed Incidents and Unpaid Bills: Anglo-Dutch Rivalry in the Banda Islands in the Seventeenth Century', *Modern Asian Studies* 29 (1995) pp. 705–740.

The VOC directors could hardly have predicted such a turn of events when they wrote to Verhoef on 29 March 1608. Yet they were clearly part of the problem. It was at their instigation that Verhoef tried to steal a march on the Portuguese and establish a Dutch trading monopoly in the Banda Islands before an armistice came into force. The directors spent the Twelve Years' Truce grappling with the consequences of their own sharp practice. Ever the VOC lobbyist, Grotius helped smooth the diplomatic rows between James I and the Dutch Estates General, caused by the standoff between the VOC and EIC in the Spice Islands. As we shall see in chapter six, he was the Company's chief spokesman at the Anglo-Dutch colonial conferences of 1613 and 1615. In preparation, he read VOC reports and depositions detailing English weapon sales to the Spanish and Portuguese at Tidore, and, of course, to the 'disaffected' inhabitants of Ambon and the Banda Islands. It was no coincidence that Grotius continued to conceptualize the VOC as both judge and executioner of its own right in the East Indies. The historical circumstances had changed dramatically since the days of *De Jure Praedae*. By the time of the Anglo-Dutch colonial conferences, it were the natives and the English who deserved condign punishment at the hands of VOC commanders, the former for transgressing the natural law principle *pacta sunt servanda* ('treaties must be honored') and the latter for abetting that 'crime'.⁹¹

4.5 Conclusion

Grotius' contribution to the peace negotiations between the United Provinces and their former Habburg rulers was twofold: he wrote a juridical exposé on the defective title of the Archdukes, and a memorandum for the VOC directors that outlined the options open to them should peace be made in Europe.

Observationes Juridicae was of far less importance to the peace talks than Grotius' memorandum for the VOC directors. If Oldenbarnevelt commissioned *Observationes Juridicae* in April 1607, he did so for no

⁹¹ Dutch National Archives, Grotius Papers, Supplement I fol. 229–238, 552–563, 588–604; Clark, 'Grotius's East India Mission to England' passim.

other reason than to outmanoeuvre the war party enthusiasts in the Dutch Estates General and to acquaint himself with possible legal objections they might have against negotiations with Philip III and the Archdukes. Oldenbarnevelt recognized the validity of some of these arguments. He agreed with the war party that the Archdukes did not have full sovereignty over the Southern Netherlands—Philip III retained control, for example, of the Spanish army—and insisted that the Spanish monarch countersign the treaties that he concluded with the Archdukes's representatives. Yet a shared concern for proper legal and political safeguards did not make either Oldenbarnevelt or Grotius a minion of the war party. Nothing could be further from the truth. Unlike 'Short Discourse' by François van Aerssen, Grotius' exposé did not circulate widely in manuscript, was never cited in war party pamphlets and failed to offer an alternative to Oldenbarnevelt's peace policy. The Delft jurist left it to the Dutch Estates General to decide on matters of war and peace. Indeed, he made a point of arguing in his memorandum for the VOC directors that Their High Mightinesses had the right to repeal the Company's charter as a concession to Philip III, provided that the VOC directors and shareholders were offered some sort of compensation, of course.

Grotius' memorandum for the VOC directors influenced the peace negotiations to a far greater extent than did *Observationes Juridicae*. The French envoy Jeannin observed in his correspondence with Henry IV of France that the VOC directors successfully lobbied Their High Mightinesses in February 1608 and persuaded them to accept Grotius' memorandum as the official Dutch negotiating position. Armed with Grotius' arguments, the Dutch Estates General firmly rejected Spanish demands for a Dutch withdrawal from the East Indies, and insisted on worldwide freedom of trade and navigation or, if Philip III wished to exclude the Indies trade from a peace treaty altogether, a continuation of the war beyond the Line. Oldenbarnevelt himself was loath to dissolve the VOC, which he had established in March 1602 to fight the enemy in the East Indies, and of which he, like many other Dutch regents, was a shareholder. Instead, he endorsed Grotius' arguments for freedom of trade and navigation in the East Indies and enunciated them with great eloquence in his conversations with the Archdukes' representatives and the French and English mediators. It was a coup de maître in the diplomatic sparring match. Whatever happened, the United Provinces

would remain firmly in control of the moral high ground. If the peace negotiations ended in failure, Henry IV of France and James I of England could justifiably blame Philip III for his intransigence and support a resumption of the war in Europe. According to natural law, the Indies trade should be free and open to everyone, so Jeannin explained in his letters to Henry IV, nor could the Dutch Republic survive without it. The financial difficulties of the Spanish Crown did not leave Philip III much choice either. In Jeannin's view, the monarch might well be persuaded to sign a peace treaty along the lines of the treaties of Vervins and Westminster, which did not mention the Indies trade at all—French and English merchants ventured beyond the Line at their own risk. As Grotius predicted in his memorandum for the VOC directors, a continuation of the war beyond the Line would be the most likely outcome of the negotiations.

Ironically, this was exactly what happened as a result of Oldenbarnevelt's proposal for a nine-year truce in the East Indies. Even though he had formally requested it, Richardot did not have any reason to be pleased with Oldenbarnevelt's proposal, which, he pointed out to Jeannin, allowed the VOC plenty of opportunity for privateering in Asia before the proposed armistice would take effect on 1 September 1609. Richardot's fears were completely justified: the VOC did try to change the situation on the ground in anticipation of a nine-year armistice, but in ways wholly unexpected by him. Under the terms of the proposed armistice, the VOC would have the right to exclude the Portuguese from trading in areas where it enjoyed 'actual possession'. Both Grotius and Oldenbarnevelt understood 'actual possession' to mean two things: a) military alliances with Asian princes and peoples and/or b) the presence of Dutch fortresses and garrisons. The VOC directors revised their orders for the Company's commanding officers accordingly. When Verhoef received the letter of 29 March 1608, he decided to combine their first and second set of instructions. On the one hand, he sent two of his ships on a privateering voyage to Japan. On the other hand, he obeyed the directors' new orders by dispatching Wittert to the Moluccas in order to renew the treaty with the Sultan of Ternate. Yet Wittert made no effort to dislodge the Spanish from Tidore. He quickly left for the Philippines, in fact, in order to blockade Manila harbor and destroy the enemy's trade and shipping, just like the directors had recommended in their first set of instructions. Verhoef's

own visit to the Banda Islands reflected the directors' new orders much more closely than Wittert's voyage to the Moluccas and Philippines. Verhoef agreed with the directors that the VOC should monopolize all trade in the Banda Islands before an armistice took effect there, preferably by building a Dutch fortress on the island of Neyra as proof of 'actual possession'—the Grotian natural law principle that figured so prominently in Oldenbarnevelt's proposal. Native opposition to Verhoef's plans sparked a long and bloody war in the Banda Islands, which would strain the VOC's relationship with the EIC to breaking point. As we shall see in chapter six, the diplomatic repercussions in Europe were such that the trading companies held official talks in 1613 and 1615 in order to resolve their differences. Grotius served as the Company's chief negotiator on both occasions.

The Truce negotiations of 1608–1609 were arguably Grotius' finest hour as both VOC lobbyist and the world's foremost theorist on freedom of trade and navigation. The VOC pamphlets that appeared in the summer of 1608 cited chapter and verse of the memorandum that he had written for the VOC directors the previous winter. In November 1608, the Zeeland VOC directors humbly requested that "Your Honor assist the Company with your labors" and write a defense of "the right of navigation—which is competent to the Dutch nation over the whole wide world." Chapter twelve of *De Jure Praedae* was published as *Mare Liberum* in April 1609. That same month, Oldenbarnevelt signed a secret agreement with the Archdukes to extend the Twelve Years' Truce to the East Indies. In January 1609, he had already consulted with Grotius about the political and material support that the VOC might need from Their High Mightinesses and the Dutch Admiralty Board in case the hostilities should continue beyond the Line. As we shall see in the following chapter, Grotius' involvement with the Truce negotiations of 1608–1609 laid the basis for the enormous growth of Dutch power in Southeast Asia in the second decade of the seventeenth century.⁹²

⁹² *Briefwisseling van Hugo Grotius* Vol. 1 pp. 128–129.

An English translation of the letter of the Zeeland VOC directors will appear in Grotius, *Commentary on the Law of Prize and Booty* Van Ittersum ed. (forthcoming).

CHAPTER FIVE

HUGO GROTIUS AND THE TRUCE NEGOTIATIONS BETWEEN SPAIN AND THE UNITED PROVINCES, 1608–1609

5.1 *Introduction*

As noted in the previous chapter, the peace talks between Their High Mightinesses and the Archdukes' representatives in February and March 1608 sent shock waves through the Dutch East India Company. According to the chronicler Emmanuel van Meteren, the VOC directors submitted "many private and public petitions to the Estates, the municipal governments and their delegates, as well as to the ambassadors of neighboring princes." The negotiations had not exactly caught the VOC directors off guard. The Gentlemen XVII had asked Grotius for a set of policy recommendations as early as October 1607. His memorandum was presented to the Dutch Estates General four months later, which assured the directors a voice in the peace talks. Grotius' preference for freedom of trade and navigation in the East Indies, or, failing that, for a continuation of the war there, quickly became the official Dutch negotiating position. When Oldenbarnevelt reached an agreement with the Archdukes' representatives about a nine-year truce beyond the Line, the VOC directors were the first to find out, and they used it to their advantage. On 29 March 1608, they wrote to their most senior commander in the East, Pieter Willemszoon Verhoef and instructed him to salvage what he could before the proposed armistice took effect in Asia on 1 September 1609. Yet this flurry of activity did not exhaust the Company's response to the peace negotiations. The present chapter will examine a very different kind of reaction on the part of the VOC directors: the active sponsorship of pamphleteering in every shape and form.¹

¹ Van Meteren, *Historie der Nederlandscher ende haerder Naburen Oorlogen* fol. 585v.

In April 1608, the Archdukes' representatives sent Father Neyen to Spain in order to obtain the approval of Philip III for a draft peace treaty, of which Oldenbarnevelt's proposal for a nine-year truce in the East Indies was an integral part. The Dutch Estates General believed that Neyen would return with the King's ratification within two months. Yet Philip III had little incentive to accept the proposed arrangements for the Indies trade, which did not oblige the VOC to withdraw from Asia at any point in the future and left open the possibility that war might be resumed at the expiration of the armistice. As a point of honor, the King refused to make peace on these conditions. In return for granting the United Provinces freedom and independence, he had expected Their High Mightinesses to concede him freedom of worship for Dutch Catholics and a prohibition of Dutch trade beyond the Line, but nothing of the sort was mentioned in the draft peace treaty or Oldenbarnevelt's proposal. Father Neyen's mission ended in complete failure. Crucially, the Dutch Estates General was kept in the dark about the King's decision until the middle of August 1608. The months of uncertainty that preceded the collapse of the peace talks were the heyday of Dutch pamphleteering in the early seventeenth century.

The supporters of Prince Maurice were in the majority among the pamphleteers. A substantial number of them were ministers in the Dutch Reformed Church, in fact, who considered it their task to warn their compatriots that Philip III could not be trusted and that the proposed peace treaty was a pact with the devil. The VOC directors took a different tack when they entered the fray. They sponsored at least three anonymous pamphlets that emphasized the importance of the Indies trade for the new state and Dutch society as a whole. The authors of these VOC pamphlets were clearly cognizant of Grotius' memorandum and borrowed many of its arguments. Like Grotius, they denounced Habsburg demands for a Dutch withdrawal from the East Indies as incommensurable with freedom of trade and navigation and the contracts and alliances which the VOC had concluded with indigenous rulers, also in the name of Prince Maurice and the Dutch Estates General. Yet it is important to note that, unlike the hack writers of the war party, they did not oppose Oldenbarnevelt's peace policies as such. Their sponsors were more interested in obtaining assurances for the Company's future, regardless of the outcome of the negotiations. In their capacity as merchants, the VOC directors could have no objections to a peace



Fig. 19. Portrait of Prince Maurice.

treaty that either explicitly endorsed Dutch trade and navigation beyond the Line or arranged for a truce in the East Indies for a limited number of years, provided that it did not prevent them from resuming hostilities at its expiration. Similarly, the directors would be happy with an armistice of many years that included both Europe and Asia, or, if limited to Europe alone, permitted the prolongation of their offensive against the Portuguese colonial empire. This was, of course, exactly what happened after the signing of the Twelve Years' Truce in April 1609.

If the pamphleteering war of the summer of 1608 already caused tensions to rise, the collapse of the peace talks on 25 August and its resurrection as truce negotiations the following day plunged the Dutch body politic into three months of unrelieved pandemonium. The war party realized that an armistice of many years might well be acceptable to Philip III and did its utmost to deter two key players in the Dutch Estates General, the provinces of Holland and Zeeland, from supporting Oldenbarnevelt's policies. Prince Maurice had no difficulty persuading the Zeeland authorities to oppose the Truce negotiations. They could ill afford to ignore the opinions of the First Noble, who cast several votes in the Estates of Zeeland. They also realized that their province had profited handsomely from the wartime economy, especially the Dutch stranglehold on Antwerp. It was against this background of stubborn Zeeland opposition to a Truce treaty that the Middelburg VOC directors wrote to Grotius in November 1608 and asked him to publish his most famous pamphlet, *Mare Liberum*.

This honorable charge did not turn Grotius into a war party propagandist, far from it. Judging by the correspondence with his Zeeland friend Johan Boreel, he sought to remain neutral in the political battles that convulsed Holland and Zeeland in the autumn of 1608. Yet he was eager to publish at least part of *De Jure Praedae* and defend the Company's interests at both the national and international stage. It may well have been at his request, in fact, that Boreel addressed a meeting of the Middelburg VOC directors in early November and persuaded them to commission the printing of *Mare Liberum*. The Delft jurist continued to be a vocal defender of the Company's interests in the winter of 1608/09. He did not just prepare *Mare Liberum* for the press, but also attended a three-way meeting between Oldenbarnevelt, the VOC directors and the Dutch Admiralty Board, which demonstrated the federal authorities' commitment to the Indies trade. Oldenbarnevelt instructed the Admiralty Board to lend the

VOC all possible assistance in fitting out its next fleet, due to sail in November 1609. Not everything went Grotius' way, however. He was disappointed in his hopes that *Mare Liberum* would influence the Truce negotiations. In all probability, the pamphlet appeared one or two weeks after the Twelve Years' Truce was signed at Antwerp on 9 April 1609. This was partly the fault of the printer, whose sloppiness exasperated Grotius, but owed far more to the caution of Oldenbarnevelt, who did not wish to compromise the Truce negotiations and insisted that Grotius postpone its publication.

It was a smart tactical move on Oldenbarnevelt's part: *Mare Liberum* would have needlessly antagonized the Archdukes if it had appeared in the winter of 1609, when the Truce negotiations entered their final stage. Otherwise, Oldenbarnevelt gave the VOC what it wanted. Domestic opposition to the Truce negotiations was manageable for him precisely because the Company's interests had been separated from those of the war party. (In addition, Oldenbarnevelt had enjoyed the political backing of Henry IV of France throughout the negotiations. The war party realized that there could be no resumption of hostilities without French support.) Despite lingering distrust of the Truce negotiations in Amsterdam and Zeeland, Oldenbarnevelt had no difficulty ingratiating himself with the VOC directors. He arranged for substantial financial and military aid for the Company and negotiated—at the directors' request—a secret amendment of article 4 of the Truce treaty, which explicitly prohibited any kind of obstruction of Dutch trade in the East Indies. As a result, the Gentlemen XVII believed that they could have it both ways. At their half-yearly meeting in September 1609, they vowed to uphold freedom of trade and navigation in the East Indies during the prospective truce, or, if it failed to take hold in Asia, by forcefully continuing the war there.

The VOC directors found themselves in an enviable position at the start of the Twelve Years' Truce, but they had worked long and hard at it. They had lobbied the Dutch Estates General for nearly eighteen months straight, using various strategies and tactics, some of which were more successful than others. Father Neyen's departure for Spain in early April 1608 had induced them to rush into print. Yet the VOC pamphlets which appeared in the spring and summer of 1608 had failed to influence the political debate in the United Provinces to the extent that Grotius' memorandum for the VOC directors had done that winter. The Dutch Estates General must have lost interest in the issue of the Indies trade when the

question of Philip III's trustworthiness became paramount—news of his rejection of Oldenbarnevelt's proposal reached The Hague only at the end of August 1608. It is nevertheless instructive to compare and contrast the VOC pamphlets with both Grotius' memorandum and hard-core war party pamphlets published that summer.

The Company's indebtedness to Grotius, his eloquent pleas for freedom of trade and navigation in particular, should be evident from section 5.2 of the present chapter. At least two publications sponsored by the VOC directors—*Discourse in the Form of a Petition* and *Statement of Important Reasons*—derived their arguments directly from Grotius' memorandum. In strictly political terms, the VOC directors were loath to take an anti-Oldenbarnevelt line in the summer of 1608. None of their pamphlets exhibited the overtly Calvinist perspective on Dutch politics and the fiery enthusiasm for total war against the Habsburg enemy that was typical of many war party publications. The VOC directors realized that their interests were best served by keeping a wary distance from Oldenbarnevelt's most zealous opponents.

Grotius' reaction to the Twelve Years' Truce and his attempts to influence the negotiations in the Company's favor are discussed in section 5.3 of the present chapter. Although *Mare Liberum* was commissioned against the backdrop of Zeeland opposition to the Twelve Years' Truce, its author threw his hat into the ring for a rather different reason. *Mare Liberum* did not advise for or against the Twelve Years' Truce: Grotius left it to the Dutch Estates General to decide on matters of peace and war, and he simply tried to get the best possible deal for the VOC. His purpose was not exactly served by the belated publication of *Mare Liberum*. Yet he could take comfort in the fact that, judging by their minutes of September 1609, the Gentlemen XVII had completely accepted and internalized his arguments for freedom of trade and navigation. In addition, he assisted Oldenbarnevelt in the development of a new colonial policy. A secret amendment of article 4 of the Truce treaty provided for freedom of trade and navigation on either side of the Line, and extended the armistice to the East Indies. Both Grotius and Oldenbarnevelt realized that, in these uncertain times, the VOC should hope for the best, but prepare for the worst. It was not difficult to persuade Their High Mightinesses to exempt the Company from various taxes and instruct the Dutch Admiralty Board to put warships, guns and ammunition at its disposal. More importantly, they endorsed the Company's

efforts to streamline its chain of command in the East Indies. The commander of each VOC fleet had always been a law unto himself. There was little or no division of responsibilities between the Company's senior officers, even when their fleets met in the East Indies. At the suggestion of Matelief Jr., and with the strong backing of Grotius and Oldenbarnevelt, the VOC directors decided to appoint a Governor General and put him in charge of the Asian venture for several years. Although assisted by a body of advisors, the so-called 'Councilors of the Indies', he would have full control of the Company's ships, strongholds, factories and personnel in the East Indies. The first Dutch Governor General, Pieter Both, sailed with the VOC fleet of December 1609. These institutional changes, along with other kinds of support from the Dutch Estates General, gave the VOC an edge over its Iberian enemies and English competitors during the Twelve Years' Truce. When the armistice failed to take effect in the East Indies, as Grotius had already predicted in his memorandum for the VOC directors of January 1608, the Company was well placed to renew its attacks on Iberian strongholds and exclude its English competitors from the Spice Islands. The First Dutch Empire was, to all intents and purposes, a creature of the Peace and Truce negotiations of 1607–1609.

5.2 *VOC Pamphleteering in the Spring and Summer of 1608*

The political elite of the United Provinces felt ill at ease with the spate of pamphlets that appeared in the summer of 1608. Yet Dutch regents could not do much about it. Their country was a hack writer's El Dorado. Most pamphlets were published and sold in the province of Holland, the printing capital of the world in the seventeenth and eighteenth centuries. The large number of printing presses and the myriad of jurisdictions in the United Provinces made it very difficult for Their High Mightinesses to control the production or distribution of pamphlets. There was little love lost between them and the writers, printers and sellers of subversive materials. Although pamphlets were sometimes useful to rally one's own troops or put pressure on one's fellow magistrates, they had great reservations about the fact that most hack writers explicitly addressed the common man or claimed to speak on his behalf. They believed that Joe Doe in the street (or rather *Jan en Alleman*) had no business discussing

government policy, let alone the fine points of religious doctrine. Hence they routinely sought to suppress pamphlets, albeit with little success. Their bugbear in the summer of 1608 was *Dutch Beehive* (*Nederlandtschen Bye-Corf*), a compilation of thirty to forty pamphlets, depending on the edition, all of which had first been published separately in 1607 and 1608. It was one thing to publish a single pamphlet critical of the peace negotiations with Spain; printing an entire compilation really went too far. They expressed their concerns in the preamble of their decree of 27 August 1608:

[I]n this year and last, a few curious, restive and quarrelsome people (enamoured of novelties and desiring a change of government) have produced and distributed among the common people various writings which inappropriately discuss and judge the lawful government of this country and its policies. Thus they have sought to alarm and cause mistrust among the good citizens who live in peace and calm, trusting the experience, loyalty, steadfastness and prudence of their lawful magistrates. In addition, they have deigned to discuss the great kings and potentates who have honored these provinces with their friendship, alliance and assistance. What is worse, they have judged these princes in terms other than the honor, respect and gratitude that we owe them for their favor and support.

In other words, *Dutch Beehive* was suppressed because of its criticism of government policy, its rabble-rousing proclivities, and its vilification of European princes allied to the Dutch Republic (e.g., the Kings of France and England). The decree also listed the most notorious pamphlets found in the compilation, including *Discourse in the Form of a Petition*, which asserted “the necessity of the East Indian navigation.”²

Discourse in the Form of a Petition (*Discours by forme van Remonstrantie*) was, of course, a pamphlet sponsored by the VOC directors. Also

² Craig E. Harline, *Pamphlets, Printing, and Political Culture in the Early Dutch Republic* (Dordrecht: Martinus Nijhoff Publishers, 1987) pp. 25–133; Simon Groenveld, ‘The Mecca of Authors? States Assemblies and Censorship in the Seventeenth-Century Dutch Republic’ in: *Britain and The Netherlands: Papers Delivered to the Ninth Anglo-Dutch Historical Conference* ed. A.C. Duke and C.A. Tamse (Zutphen: Walburg Pers, 1987) pp. 63–86; Matthijs van Otegem, ‘Tijd, snelheid, afstand; de mechanica van het pamflet’, *De Zeventiende Eeuw* 17 (2001) pp. 50–61; Jonathan I. Israel, *Radical Enlightenment: Philosophy and the Making of Modernity, 1650–1750* (Oxford: Oxford UP, 2001) pp. 185–196, 275–327; P.A. Tiele, *Bibliotheek van Nederlandsche Pamfletten* (Amsterdam, 1858) Vol. I (1500–1648) pp. 88–89; W.P.C. Knuttel, *Catalogus van de Pamfletten-Verzameling berustende in de Koninklijke Bibliotheek* (The Hague, 1889) Vol. I (1486–1620) pp. 291–293 (the three editions of *Dutch Beehive* are listed as Kn. 1474, 1475, 1476); *Register van Holland en Westvriesland, 1607–1609* pp. 676–678 (minutes of 30 Aug. 1608—the Dutch Estates General’s decree of 27 August 1608 is reproduced in its entirety on p. 677).

included in the compilation, though not mentioned by name in the decree of the Dutch Estates General, was *Impartial Discussion of the Indies Trade* (*Onpartydich Discours opte handelinge vande Indien*), another Company publication. The third pamphlet that contemporaries, notably the Dutch chronicler Emmanuel van Meteren, attributed to the VOC directors was *Statement of Important Reasons* (*Memorie vande ghewichtighe redenen*). The directors had gone to great lengths, however, to conceal their involvement. All three pamphlets were published anonymously and lacked a printer's name and place of publication on their title pages. Did the directors really need to take these precautions? When it came to suppressing *Dutch Beehive*, the authorities' bark was much stronger than their bite. A federal decree remained inoperative unless promulgated by the provincial Estates and enforced by town magistrates. In the case of *Dutch Beehive*, the Estates of Zeeland decided not to promulgate the decree of 27 August 1608 until it was actually enforced in the Holland towns. Meanwhile, the Zeeland Audit Office (*Rekenkamer*) was busily collecting the very pamphlets condemned by Their High Mightinesses. The latter were not terribly consistent in their policies either. Before long, a 'purged' edition of *Dutch Beehive* was published by Hillebrant Jacobszoon, the printer to the Dutch Estates General.³

³ *Discours by forme van Remonstrantie: Vervatende De Noodsaekelickheyd vande Oos-Indische navigatie, by middel vande welcke, de vrye Nederlandsche Provintien, apparent zijn te gheraecken totte hooghste Prosperiteyt* Kn. 1428, 1429, 1430 (1608); *Onpartydich Discours opte handelinge vande Indien* Kn. 1436, 1437 (1608); *Memorie vande ghewichtighe redenen die de Heeren Staten generael behooren te bewegen om gheensins te wijcken vande handelinge ende vaert van Indien* Kn. 1431, 1432, 1433 (1608), translated into French by Jean Petit as *Sommaire Recveil, des raisons plus importantes, qui doivent mouvoir Messieurs des Estats des Provinces unies du Pais bas, de ne quitter point les Indes* Kn. 1434 (La Rochelle, 1608); Van Meteren, *Historie der Nederlandscher ende haerder Naburen Oorlogen* fol. 585v–589r; *Gedrukte Notulen van de Staten van Zeeland, 1607* pp. 78–79 (minutes of 3 Sept. 1608); *Register van Holland en Westvriesland, 1607–1609* pp. 675–676 (minutes of 30 Aug. 1608); Tiele, *Bibliotheek van Nederlandsche Pamfletten* (Amsterdam, 1858) Vol. I (1500–1648) p. 89; Zeeland Provincial Archives (*Zeeuws Archief*), *Rekenkamer A, Xe Copulaet: Acten ende actitaten met diverse discoursen angaende den Staet van de Nederlanden midtsgaders van d'Oorloge ende Treves der Zelfer* fol. 151–163; *Stucken Gemencioneert inden Bycoff die byde . . . Staten Generael . . . toeghestaen ende niet verboden worden, volghende den Placcate vanden xxvii.en Augusti Anno sesstien-hondert ende acht, soo raeckende de vredehandelinghe als anderssints* Kn. 1477 (The Hague: Hillebrant Jacobszoon, 1608).

In his MA thesis, Ronnie Kaper identifies *Le plaidoyer de l'Indien Hollandois, contre le pretendu pacificateur Espagnol* (Kn. 1435) as a VOC pamphlet as well. It is unclear, however, on what grounds he attributes *Le plaidoyer* to the Company directors. The present author believes that *Le plaidoyer* has more in common with war party pamphlets than with the three VOC pamphlets identified above. But compare Ronnie

The botched attempt to suppress *Dutch Beehive* reflected the deep divisions within the political elite of the United Provinces in the summer of 1608. Their High Mightinesses may not have liked the fact that the peace negotiations were discussed at street corners and in taverns, but they were totally incapable of preventing it, mainly because of their own disunity. They had ordered the suppression of *Dutch Beehive* for more reasons than they were willing to disclose in the preamble of their decree of 27 August. When the pamphlet was first brought to their attention on 23 August, they had noted in disgust that it portrayed Henry IV of France and James I of England as “frogs.” This could not be tolerated, of course. Oldenbarnevelt needed the help of both monarchs just to keep negotiations going with the Archdukes’ representatives. Since Philip III refused to compromise on religion and the Indies trade, the peace talks were in real danger of collapse at the end of August 1608. Significantly, it was Henry IV’s trusted servant, Pierre Jeannin, who proposed that both parties negotiate a truce of many years and thus succeeded in breaking the deadlock, much to Oldenbarnevelt’s relief. In these circumstances, Their High Mightinesses could not afford to appear ungrateful towards the French king. They must have harbored few illusions about the effectiveness of their decree of 27 August. It dismally failed to put an end to the pamphlet wars that had raged all summer. When the VOC directors ventured into the wild world of pamphleteering, they clearly did so with impunity.⁴

Kaper, ‘Pamfletten over Oorlog of Vrede: Reacties van Tijdgenoten op de Vrede-sonderhandelingen van 1607–1609’ (Unpublished MA thesis: University of Amsterdam, 1980) p. 70.

⁴ *Resolutiën der Staten-Generaal, 1579–1609, Viertiende Deel, 1607–1609* (RGP 131) p. 624 (minutes of 23 Aug. 1608); Van Eysinga, ‘De wording van het twaalfjarig bestand van 9 april 1609’ pp. 76–139; Den Tex, *Oldenbarnevelt* Vol. II pp. 565–661; Harline, *Pamphlets, Printing and Political Culture in the Early Dutch Republic* pp. 3–5; Groenveld, ‘The Mecca of Authors?’ pp. 69–70, 74, 80.

Just the sheer number of pamphlets published during the Peace and Truce negotiations made it very difficult for Dutch regents to stifle public discussion. As Craig Harline notes,

Around 1607 we see a sudden, major increase in production. Averages for the next four decades rose to a new plateau: 125, 205, 110, and 165, between three to five times the rate before 1606. More importantly, . . . most pamphlets were now being produced by private individuals. After 1648, 200 to 300 issues per year were brought to press, and a vexed government was unable to do much about it.

This is not to say that Dutch regents did not try: the Estates of Holland made a valiant attempt to implement the decree of 27 August 1608. For example, Leiden

Although Dutch historians have long recognized the importance of *Discourse in the Form of a Petition* and *Statement of Important Reasons*, they have never related their contents to Grotius' memorandum for the VOC directors, nor, for that matter, to the Company's overarching strategy vis-à-vis the peace negotiations. There is, in fact, a strong ideological connection between Grotius' memorandum and these two pamphlets, both of which defend freedom of trade and navigation as a natural right. Their policy recommendations are equally interesting: each pamphlet represents a different aspect of the Company's response to political developments in The Hague in the winter and spring of 1608. The writer of *Discourse in the Form of a Petition* expressed the hope that, "in their deliberations on the proposed peace negotiations," the Dutch Estates General would not decide to relinquish the "advantages" that the VOC had already gained in the East Indies, or might still gain there. The author of *Statement of Important Reasons* announced that the Company would be happy to continue the war in Asia if Philip III refused to include the Indies trade in a peace treaty. Grotius had made the same point in his memorandum for the VOC directors, of course, which was forwarded to the Dutch Estates General in the middle of February 1608. Did the Gentlemen XVII sponsor the publication of *Discourse in the Form of a Petition* and *Statement of Important Reasons* in order to publicize Grotius' plea for freedom of trade and navigation and put political pressure on Their High Mightinesses?⁵

An even more interesting historiographical problem is the question of authorship. Could Grotius have written both pamphlets himself? It is certainly suggestive that *Discourse in the Form of a Petition* follows the format of the famous *Itinerario* of Jan Huygen van Linschoten when it describes Asian trade routes and their importance for Dutch commerce. Grotius happened to own a copy of the *Itinerario*, which

magistrates banned the Dutch translation of a letter by Justus Lipsius, originally written in 1595. The letter discussed the question whether Philip II should make peace with the French, the English, or the Dutch. Its reprint could therefore be considered an oblique comment on the peace negotiations of 1608. The printers of the Dutch translation of Lipsius' letter complained to Their High Mightinesses on 17 September 1608, but to no avail. Compare *Resolutiën der Staten-Generaal, 1579–1609 Vertiende Deel, 1607–1609* (RGP 131) p. 625; *Justi Lipsii Sent-Brief* Kn. 1496–1499 (Dusseldorf?: 1608).

⁵ *Discours by forme van Remonstrantie* f. 6v; *Memorie vande gheuevichtige redenen* f. 4r; Dutch National Archives, Grotius Papers, Supplement I ff. 406r, 411r–413v.

was published in Amsterdam in 1595–1596. What is even more intriguing is the fact that both Grotius' memorandum for the VOC directors and *Discourse in the Form of a Petition* contain highly detailed, and utterly comparable, analyses of the Company's position in Asia. *Discourse in the Form of a Petition* extols the prospects for Dutch trade in India and Ceylon in much the same manner as Grotius' memorandum. Both mention the presence of VOC trading posts on the Coromandel Coast and make much of the Company's (potential) allies in the region, such as the Samorin of Calicut and the Moghul Emperor, the suzerain of Surat, one of the most important ports on the Indian subcontinent. Only the VOC directors were in a position to supply this kind of detailed political and commercial information to both Grotius and the author of *Discourse in the Form of a Petition*. Could they have been one and the same person? Unfortunately, a counter argument can be made on good grounds. No autograph or draft copy of *Discourse in the Form of a Petition* has survived among the Grotius papers at the Dutch National Archives. The same is true of the other two VOC pamphlets, *Statement of Important Reasons* and *Impartial Discussion of the Indies Trade*. It is entirely possible, of course, that Grotius shared the authorship of the three VOC pamphlets with friends and colleagues. In lobbying the Dutch Estates General, the directors did not rely on Grotius alone, but used the services of other lawyers as well—witness the “Dear Gentlemen” salutation that graced their note of 8 October 1607. Could the VOC pamphlets have been a joint project of Grotius and his lawyer friends, including Johan Boreel and Jan ten Grootenhuys perhaps? Or was Grotius just responsible for the memorandum and did he leave pamphleteering to others? In *Annales et Historiae*, Grotius scornfully dismissed the flood of pamphlets published during the Peace and Truce negotiations of 1607–1609. Born into a prominent regent family in Delft, Grotius believed that affairs of state were the privilege of the few and best conducted without any popular pressure or interference. Two of Grotius' best known pamphlets were written in Latin and addressed to an elite audience: Dutch ministers in the case of *Ordinum Pietas* (1613) and the “Princes & Free States of the Christian World” in the case of *Mare Liberum* (1609). It seems unlikely, then, that Grotius was personally involved with the directors' pamphleteering campaign in the spring and summer of 1608. Yet there can be no doubt that his memorandum was put at the disposal of the Company's hack writer(s), who carefully

reproduced his arguments in the three VOC pamphlets. Let's take a closer look at each of these.⁶

I *Discourse in the Form of a Petition Regarding the Necessity of the Navigation to the East Indies, By Which Means the Free Dutch Provinces Will Attain the Greatest Prosperity*

The author of *Discourse in the Form of a Petition* stated his aims and objectives in the first paragraph of the pamphlet, where he made it clear that "it will be very beneficial, honorable and profitable for the Fatherland to keep the East and West Indies trades." He took his readers on an imaginary journey along the shores of the Indian Ocean and China Sea in order to inform them about both the commercial opportunities and political situation in key Asian ports, as well as about the Company's prospects for trade there. The author of *Discourse in the Form of a Petition* made a conscious decision, however, to omit Africa's eastern seaboard and the ports of Aden and Ormus from his survey. He admitted that the VOC had not made much headway in that part of the world, but assured his readers that "there is sufficient knowledge of those places, the nature of their inhabitants and the volume and diversity of their trade"—a clear reference to Jan Huygen van Linschoten's *Itinerario*. Sailing past Aden and Ormuz, the author made Surat his first port of call. VOC merchants had been well received in this important port, which abutted Cambay, a region famous for its cottons, indigo, sugar and ginger. As suzerain of Surat, the Moghul Emperor was an avowed enemy

⁶ *Discours by forme van Remonstrantie* ff. 2r-v, 3v-6r; Molhuysen, 'De Bibliotheek van Hugo de Groot in 1618', pp. 45-64 (*Itinerario* is listed as no. 198); *The Voyage of John Huygen van Linschoten to the East Indies* ed. Arthur Coke Burnell and P.A. Tiele 2 vols. (London, 1885, and reprinted New York: Burt Franklin, 1964) Vol. I *passim*; *Het Itinerario van Jan Huygen van Linschoten, 1579-1592* ed. H. Kern, Werken uitgegeven door de Linschoten-Vereeniging XLII, 5 vols. (The Hague: Martinus Nijhoff, 1910-1939); Dutch National Archives, Grotius Papers, Supplement I, fol. 329r; Hugo Grotius, *Nederlandsche Jaerboeken en Historien* trans. Joan Goris (Amsterdam, 1681) p. 565; Grotius, *Ordinum Hollandiae Ac Westfrisiae Pietas* ed. Rabbie pp. 37-39; Grotius, *The Free Sea* ed. Armitage p. 5.

Grotius was on intimate terms with both Jan ten Grootenhuys and Johan Boreel in the first decade of the seventeenth century. Compare *The Poetry of Hugo Grotius, 1604-1608* Rabbie ed. pp. 73-74, 104-110, 192-201; *Briefwisseling van Hugo Grotius* Vol. I pp. 44-45, 59, 60, 79, 87, 95, 115-117, 119; *Briefwisseling van Hugo Grotius* Vol. XVII pp. 41-43.

of the *Estado da India*. He would undoubtedly “engage with us and other nations in free trade and commerce” as soon as VOC ships had chased away the Portuguese frigates that blockaded his coast. A peace treaty with Philip III should, in fact, be a great opportunity for the VOC to gain control of Cambay’s commerce, provided hostilities would cease in Asia and the Dutch would not be prevented from trading with indigenous princes and peoples. Grotius had argued the same in his memorandum for the VOC directors.⁷

Which right did the “free provinces” have to trade with Asian princes and peoples, “who are not subject to the Portuguese”? The question inspired a long digression on various legal, political and military aspects of the Indies trade, which was presented as a) an attribute of Dutch sovereignty and independence and b) a necessary condition for the survival of the Dutch Republic. Since it had been recognized as a “free state,” so the author of *Discourse in the Form of a Petition* argued, the Dutch Estates General should reject the imposition of a “servitude” that had already been unacceptable to “our ancestors,” who were still subjects of Charles V and Philip II. Even the “common man” realized that the “security” of the United Provinces demanded something more than the “considerations and alliances of neighboring Kings and Princes” (i.e. Henry IV of France and James I of England). As the author of *Discourse in the Form of a Petition* explained, the “bounteous and extraordinary” Indies trade enriched the state as well as the merchants, provided crucial information about “all the world’s commerce,” and increased Dutch naval power as well. The sinew of war was not money, but the Indies trade. Without it, the Habsburgs could hardly have pursued the aim of establishing

⁷ *Discours by forme van Remonstrantie* ff. 6v, 2r–v.

Jan Huygen van Linschoten discussed the trade of Mozambique and eastern Africa in chapter four of the *Itinerario* proper, and focused on the overland caravan routes between Ormuz in the Persian Gulf and Aleppo in Syria in chapters five and six. Compare *The Voyage of John Huygen van Linschoten to the East Indies* ed. Burnell and Tiele Vol. I.

Grotius referred to a possible alliance between the Company and the ruler of Cambay in his memorandum for the VOC directors. He emphasized Cambay’s importance for Portuguese trade, and even included a detailed discussion of various high-quality cottons produced in the region. Grotius would have agreed with the author of *Discourse in the Form of a Petition* that free trade in Cambay was the Company’s best option if the Dutch Estates General made peace with Philip III. Compare Dutch National Archives, Grotius Papers, Supplement I, ff. 405v–406v, 410r, 416v.

a universal monarchy. Spain desired peace for no other reason than to prevent a further decline of its navigation in the East and West Indies, “the only support of its unwieldy and otherwise immobile body.” The author of *Discourse in the Form of a Petition* entertained few illusions about the motives of Philip III. A peace treaty would give him the opportunity to dupe the Dutch, whom he knew to be “faithful and good-natured,” with all kinds of “loose Spanish practices in commerce.” Yet it should be possible to defeat his stratagems. If the Dutch continued to trade and navigate in the Indies, Spain would soon become so enervated and powerless that it could never again attempt anything “against the freedom of our Fatherland.”⁸

With these patriotic sentiments, the author of *Discourse in the Form of a Petition* resumed his imaginary journey along the Indian Ocean littoral and sailed along the Malabar Coast south of Goa. The Portuguese harassment and intimidation of the Samorin of Calicut, a VOC ally, filled the author with righteous indignation. Fortunately, the ruler had not been cowed by Portuguese threats and outwitted the Viceroy at Goa on more than one occasion. He had taken into his protection the inhabitants of the island of “Tremapatan,” for example, all refugees from the Malabar Coast, whose plunder voyages did great harm to the *Estado da India*. In conversations with VOC commanders, he had promised to reduce the Portuguese stronghold of Cochin with an “innumerable host of soldiers” as soon as the VOC provided him with ships and guns, and he expressed his wish to free the coast of Cambaya from Portuguese “robbery” as well. According to the author of *Discourse in the Form of a Petition*, the VOC’s powerful fleets could tip the balance in a number of localized struggles between the Portuguese and Asian rulers. In 1606, for example, the *Zierickzee* and *Vlissingen* had relieved the town of Johore after a Portuguese siege of several months, which induced a grateful ruler to ally himself with the Dutch. The Company could not have wished for a better alliance: it was simply impossible to dislodge the Portuguese from Malacca without the military support of the Sultan of Johore. The Portuguese had seized Malacca from his

⁸ *Discours by forme van Remonstrantie* f. 3r; compare Dutch National Archives, Grotius Papers, Supplement I, ff. 407v–408v, 411r, 412v.

The theme of Spanish duplicity and treachery pervaded the pamphlets published by opponents of Oldenbarnevelt’s peace policy in the spring and summer of 1608. See Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 23–25.

ancestors and “cruelly beheaded” a forefather to “better affirm their usurpation.” If the rumors were true that reached the VOC directors from Portugal, the alliance with Johore had born fruit already. Their commander, Cornelis Matelief Jr., appeared to have engaged the Portuguese in a bloody battle off Malacca and defeated the *armada* sent from Goa. As a consequence, Malacca must have surrendered to Matelief, rendering the Portuguese position in Southeast Asia extremely precarious.⁹

⁹ *Discours by forme van Remonstrantie* f. 3v; compare Grotius Papers at the *Dutch National Archives*, Supplement I, ff. 405v, 410v, 422r; H. Terpstra, *De Opkomst der Westerkwartieren van de Oost-Indische Compagnie* (The Hague, 1918) pp. 16–26; Heeres, ‘Corpus Diplomaticum Neerlandico-Indicum: Part I (1596–1650)’ pp. 30–31; Subrahmanyam, *The Portuguese Empire in Asia* pp. 133–137, 144–163.

The pamphlet conflates four Dutch visits to Johore, neither of which occurred in 1606! The first visit involved Jacob Pieterszoon, Sebald de Weert’s successor as second in command of the fleet of Van Warwijck. While preying for prizes in Malacca Straits, he learnt that a Portuguese squadron was blockading Johore River. Even though he had just a yacht and two ships (*Hollandsche Tuin* and *Zierikzee*) at his disposal, he nevertheless decided to intervene on the Sultan’s behalf and valorously attacked the Portuguese fleet, which consisted of two warships, four galliots and twenty brigantines. The Portuguese *armada* beat a hasty retreat after the second Dutch attack on 10 October 1603. Four days later, Jacob Pieterszoon set sail for Patani. (Unlike the author of *Discourse in the Form of a Petition*, Grotius offers a faithful account of this episode in *De Jure Praedae*. Compare Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 354–355.)

Wijbrand van Warwijck visited Johore himself on 3 May 1604 and delivered some guns, powder and shot in order to prop up the Sultan’s defenses against the Portuguese. After a rather fruitless voyage to China, Van Warwijck reached Patani in March 1605. Patani was a safe-haven for the VOC: Van Warwijck even obtained permission from the Queen to seize a Portuguese carrack lying at anchor in the harbor. The unexpected arrival of the *Vlissingen*, which he had sent ahead to Bantam just a few months earlier, was another pleasant surprise for him. The ship had taken a rich Portuguese prize near Pedro Branca, but gotten into trouble with the Portuguese squadron blockading Johore River. The *Vlissingen* had therefore continued on to Patani. After relieving the ship of its precious cargo, Van Warwijck sent the *Vlissingen* back to Johore in order to assist the Sultan. Van Warwijck himself returned to Johore on 27 October 1605, only to find that his help was no longer needed. Cornelis Bastiaanszoon, second in command of the fleet of Steven van der Haghen, was in full control of the situation. Van Warwijck took all his ships, including the *Vlissingen*, to Bantam and thence to Holland.

Interestingly, no treaties were concluded between the Sultan of Johore and the Dutch commanders on any of the occasions mentioned above. The earliest surviving treaties are dated 17 May and 23 September 1606, respectively. The first treaty stipulates the division of labor between the Sultan and Cornelis Matelief Jr. in their siege of Malacca, as well as the rights and obligations of each party after its presumed fall. Since the siege proved unsuccessful, both parties signed a second treaty in September 1606, which confirmed the Company’s existing trading privileges in Johore. The siege of Malacca was not a complete failure, however. As suggested by *Discourse in the Form of a Petition*, Matelief Jr. did defeat a relief fleet sent from

After this martial interlude, the author of *Discourse in the Form of a Petition* set out again on his imaginary voyage along the shores of the Indian Ocean. The saber-rattling continued intermittently: he pointed out, for example, that the island of Ceylon, famous for its sapphires and other precious stones, had become a thorn in the thigh of the *Estado da India*. The Singhalese ruler of the island's interior was an inveterate enemy of the Portuguese and desirous of VOC assistance. If it had not been for the tragic misunderstanding between the "King of Kandy" and Sebald de Weert, their joint forces would have brought about "the ruin and destruction of the Portuguese fortresses of Columbo and Puncto de Gallo." Luckily, the Portuguese garrisons could do little about Dutch privateering off Cape Comorin, the most southern point of the Indian subcontinent, nor prevent the establishment of VOC factories on the Coromandel Coast, north-east of Cape Comorin. The author of *Discourse in the Form of a Petition* emphasized that the Portuguese "have no authority on land whatsoever," and visited the Coromandel Coast as foreign merchants, "just like our nation." Clearly, there were good prospects for Dutch trade on the Coromandel Coast and in the Bay of Bengal, which exported a wide variety of high quality cottons, large quantities of sugar, and precious stones such as pearls, diamonds, and rubies.¹⁰

Goa. He managed to inflict heavy losses on the Portuguese, both on 14 August 1606—the first battle—and in late September 1606—the second battle.

Compare *De Opkomst van het Nederlandsch Gezag in Oost-Indië* Vol. III pp. 16–26; Heeres, 'Corpus Diplomaticum Neerlandico-Indicum: Part I (1596–1650)' pp. 41–45, 47–48; Stapel, *Geschiedenis van Nederlandsch Indië* Vol. III pp. 54–55; Borschberg, 'Portuguese, Spanish and Dutch Plans to Construct a Fort in the Straits of Singapore, ca. 1584–1625' pp. 67–87; Borschberg, 'The Seizure of the *Santo António* at Patani: VOC Freebooting, the *Estado da Índia* and Peninsular Politics, 1602–1609', pp. 59–65.

¹⁰ *Discours by forme van Remonstrantie* f. 4r–v; Dutch National Archives, Grotius Papers, Supplement I fol. 410r, 416v; Subrahmanyam, *The Portuguese Empire in Asia* pp. 122–142.

VOC factories were established at Masulipatam on the Coromandel Coast in 1605, and a year later at Petapuli. The author of *Discourse in the Form of a Petition* was apparently under the impression that a combined Dutch and English force had taken a rich carrack off Cape Comorin in 1602. Joris van Spilbergen, commander of a Zeeland fleet fitted out by Balthasar de Moucheron, and James Lancaster, who headed the first EIC voyage, were certainly successful in seizing the carrack from St. Thomé in October 1602. Yet they did so in Malacca Straits, not off Cape Comorin. Compare H. Terpstra, *De Opkomst der Westerkwartieren van de Oost-Indische Compagnie* (The Hague: Martinus Nijhoff, 1918) pp. 27–45; Terpstra, 'De Nederlandsche Voorcompagnieën' pp. 458–459; Stapel, *Geschiedenis van Nederlandsch Indië* Vol. III pp. 31–38.

After his sweep north through the Bay of Bengal, the author of *Discourse in the Form of a Petition* turned south again and arrived at Malacca, the linchpin of “Portuguese dominance in the Indies.” In his view, the naval victories of Matelief Jr. and the reported fall of Malacca would have profound consequences for the entire region and might well result in a break-up of the Portuguese empire in Asia. It would certainly interrupt the transit trade between the Indian subcontinent and the Far East, which was so profitable to the Portuguese that “they have exceeded all the world’s merchants in riches.” Matelief’s victory should be an eye-opener for Asian rulers, in fact, who had suffered “much violence and harassment” from the Portuguese, and who were eager to turn against the *Estado da India*. Mighty territorial rulers like the Moghul Emperor and the “Kings” of Siam and Calicut wanted nothing better than to revenge themselves for all the “injuries” suffered at the hands of the Portuguese. The rulers of Patani, Johore, Bantam and Ternate had enunciated similar sentiments in their conversations with VOC commanders. When the Portuguese began to use “violence and force” against them a century earlier, these princes had made every effort to defend themselves and “protect their freedom against Portuguese usurpation.” Yet they had lacked guns, warships, and mariners trained in naval warfare, and they had soon succumbed to Portuguese “arms” and “industry.” The *Estado da India* had established strongholds in some places, elsewhere negotiating “exclusive trading privileges in the fashion of merchants,” even though the indigenous rulers who signed these commercial treaties had oftentimes been “no true friends of the Portuguese.” When Dutch ships first appeared in the East Indies, these rulers had broken off all trade relations with the Portuguese and even taken up arms against the *Estado da India*, notably the “Kings of Bantam, Johore, Aceh, and Ternate, as well as the peoples of Banda and Ambon.” Other Asian rulers had followed suit and declared for the Dutch as well, largely because of the naval victories of Cornelis Matelief Jr. and Paulus van Caerden. The hero of Gibraltar, Pieter Willemszoon Verhoef, had sailed at the head of a “mighty fleet” just recently. The writer prayed to God that He might bless the VOC commanders in their attacks on the *Estado da India*, which would “eradicate the unlawful usurpation of the Portuguese and increase the trade of the United Provinces.” Only commerce could provide the new state with sufficient means to fend off the enemy and preserve a “precious, well-protected liberty.” In other

words, the VOC's commercial interests were inseparable from the common cause—the defense of Dutch freedom and independence against Habsburg tyranny.¹¹

Leaving Malacca Straits, the author of *Discourse in the Form of a Petition* sailed north along the shores of the Malay Peninsula and entered the roadstead of Patani. He made much of the Company's trade there. Situated at the crossroads of important trade routes, Patani exported large quantities of "excellent course-grained pepper" to Siam, Pegu and China. The "Queen" of Patani was an arch-enemy of the Portuguese: she had even given Wijbrandt van Warwijck permission to capture a Portuguese carrack that lay at anchor in her roadstead. At his departure from Patani, the author of *Discourse in the Form of a Petition* turned south to Borneo. The VOC was fortunate enough to enjoy the friendship of the island's ruler. Borneo was highly valued for its abundance of fruit, vegetables and rice, not to mention its wealth of diamonds, ginger, and camphor. Yet Dutch trade in the Spice Islands should be regarded as "the richest and most profitable in all the Indies." Cloves, nutmeg and mace were available at reasonable prices in the Banda Islands, the Moluccas and Ambon; indeed, these spices could be acquired "for food and cottons, rather than for silver," a double advantage for the Company. If the VOC achieved military and naval dominance in the Spice Islands, it would *ipso facto* be master of the "most profitable and richest trade of the whole world"—cloves, nutmeg and mace were not grown anywhere else on earth. The VOC directors were close to achieving this goal: it was at their behest that Steven van der Haghen had captured the Portuguese fortress at Ambon in 1605, for example. Unfortunately, a Spanish expeditionary force from the Philippines had conquered large parts of Tidore and Ternate, the two most important islands in the Moluccas, the following year. Still, the author of *Discourse in the Form of a Petition* was not in the mood for any kind of defeatism. He presumed that either Matelief Jr. or his successor, Paulus van Caerden, had liberated Ternate from the Spanish forces already. Nor was he unaware of the first set of instructions that Pieter Willemszoon Verhoef received from the VOC directors, which ordered a naval blockade of Manila and the destruction of all Spanish

¹¹ *Discours by forme van Remonstrantie* f. 4v, 5r; compare Dutch National Archives, Grotius Papers, Supplement I fol. 405r, 410v–411r, 412r–v.

and Portuguese shipping in Moluccan waters. The author of *Discourse in the Form of a Petition* confidently predicted that the Spanish would think twice about ever invading the Moluccas again “as soon as Dutch ships appear in the populous Philippine Islands.”¹²

The author of *Discourse in the Form of a Petition* concluded his arm-chair voyage along the shores of the Indian Ocean and China Sea with a direct appeal to Their High Mightinesses. On no account should they relinquish at the conference table the “advantages” that the VOC had already gained in the East Indies, or might yet gain there before a peace treaty came into force. If they did so, it would spell disaster for the “loyal, well-meaning East Indian princes, who have put their trust in our trade.” The very honor and reputation of the Dutch nation was at stake here. If the Company’s allies were reduced to “abject Spanish slavery,” Philip III would emerge from the peace negotiations much stronger than before and could congratulate himself on “snatching his West and East Indian rod from our hands.” The author argued that, once “we have turned our own [Asian] friends into enemies,” it should not be too difficult for the King to put a definitive end to Dutch trade in the East Indies. This outcome would be a disaster for the country as well as for the VOC. The author warned his compatriots that they might well have to fight the King on their own, should he decide to renew the war, “for which he will never lack any pretexts.” Only if the United Provinces retained a worldwide trading network, would the country be safe and secure, “in so far as there can be safety and security in human considerations.” Man proposes, God disposes, or so it would seem at least to the author of *Discourse in the Form of a Petition*.¹³

II *Statement of Important Reasons That Should Induce the Dutch Estates General Not to Withdraw from the Indies Trade and Navigation*

The author of *Statement of Important Reasons* took a rather different approach in his defense of the VOC’s commercial interests. He pre-

¹² *Discours by forme van Remonstrantie* ff. 5v–6r; Borschberg, ‘The Seizure of the *Santo António* at Patani: VOC Freebooting, the Estado da Índia and Peninsular Politics, 1602–1609’, pp. 59–65; Heeres, ‘Corpus Diplomaticum Neerlandico-Indicum: Part I (1596–1650)’ pp. 73–75; Opstall, *De Reis van de Vloot van Pieter Willemz Verhoef* pp. 187–188.

¹³ *Discours by forme van Remonstrantie* f. 6v; compare Dutch National Archives, Grotius Papers, Supplement I, fol. 410r–411r.

ferred to focus on freedom of trade and navigation per se, which, in his view, was mandated both by natural law and the ancient constitution of the Low Countries. In addition, he computed the annual contribution that the Indies trade made to the Dutch economy and concluded that it topped all other commercial interests combined, with respect to “capitalization, number and valor of personnel, as well as naval power.” Another point of concern for him was the honor and trustworthiness of the new state, which would be severely compromised if the Dutch Estates General failed to meet its obligations to various interest groups. He believed that the state was simply the sum of its parts, that is a fairly loose collection of private citizens, whose interests could not be ignored by Their High Mightinesses. There was also the question of Spanish motives. The author of *Statement of Important Reasons* suspected that the peace negotiations were just a clever ruse of Philip III, who sought to diminish Dutch trade and make it more dependent on Spain, which would make it impossible for the United Provinces to resume the war. We shall examine each of these arguments in turn.

The author of *Statement of Important Reasons* introduced his plea for freedom of trade and navigation with the observation that “friendship, conversation and commerce follow necessarily from peace according to the General Law of Nature and of all Peoples and of all times.” Never had a peace been concluded between two countries which prevented their inhabitants from traveling and trading in all the territories involved. This would amount to outright “exile,” in fact, a punishment usually meted out to “enemies and criminals.” Demands for a Dutch withdrawal from the East Indies were not only unfair and unjust, but also proof of Spanish hypocrisy. Although Philip III declared the United Provinces to be “a free, sovereign state,” he treated its inhabitants in a worse manner than was ever the case “under the [Burgundian] Princes.” His peace proposals did not offer the Dutch anything which they had not already enjoyed during the war—far less, in fact. He wanted the Dutch to approve their own banishment from the Indies and “patiently” suffer his naval forces to engage in hostilities against them. In short, the King had shown his true character, speaking “treacherously” of peace, while “fiercely waging war at the same time.” It was preposterous to suggest that a seafaring nation like the Dutch should abandon the greater part of the ocean and the most profitable segments of world trade. The provinces of Holland and Zeeland lived off the sea, quite literally,

and boasted “the best merchants and most valorous mariners of the whole world.” The King of Spain was deluding himself if he believed he could dispose of

Kingdoms and countries where he has no authority, and the sea which has never been ruled by anyone, its use being free and open to all people *Jure Gentium*, in consideration of the fact that nobody in the world has private possession or jurisdiction there.¹⁴

The contribution that the Indies trade had made to the Dutch economy, and, indirectly, to the Dutch war effort against Spain, was the second argument used by the author of *Statement of Important Reasons*. The United Provinces would not have survived their long and difficult war against Spain without free trade and navigation, the sole means of “our preservation.” The author of *Statement of Important Reasons* postulated a direct correlation between the country’s volume of trade and “the power of this state.” The United Provinces were very different from the territorial monarchies of Europe: the land under cultivation was of such limited extent that it could not feed or employ all the inhabitants, let alone generate the tax revenues needed by the government. It was imperative to quantify the detrimental economic consequences of a Dutch withdrawal from the East Indies, precisely because of its implications for state power, which would diminish in the same degree. The author of *Statement of Important Reasons* regaled his readers with some impressive figures in discussing Company trade. There were approximately forty VOC ships in the East Indies, manned by five thousand seafarers, which could be expected to bring home no less than 33 million Dutch guilders worth

¹⁴ *Memorie van de ghevoichtighe redenen* f. 1r–v.

Grotius would broadly have agreed with the sentiments expressed in *Statement of Important Reasons*, especially the author’s contention that “the sea . . . has never been ruled by anyone, its use being free and open to all people *Jure Gentium*, in consideration of the fact that nobody in the world has private possession or jurisdiction there.” Grotius explicitly denied in his memorandum for the VOC directors that Philip III had any authority to prevent, or even regulate, trade between an independent Dutch state and sovereign princes and peoples in the East Indies.

There were a few significant differences between Grotius’ plea for freedom of trade and navigation and that of the author of *Statement of Important Reasons*. The latter believed that, under the natural law, commerce was “a necessary consequence of peace.” Yet Grotius argued in his memorandum for the VOC directors that “freedom of trade springs from nature and not from the law of war,” and that, for this very reason, it cannot be “annulled by peace.” Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 407r–v.

of return cargoes. The Guinea trade employed twenty ships and four hundred mariners, yearly revenues being 1.2 million guilders. The salt trade of Puncto d'El Rey (modern-day Venezuela) involved one hundred ships and eighteen hundred seamen, and it yielded an annual profit of 1 million guilders. Twenty ships and fifteen hundred sailors engaged in the contraband trade with Cuba and Espagnola, which was good for 8 million guilders in annual earnings. When he had added everything up, the author of *Statement of Important Reasons* concluded that the Indies trade as a whole was worth "four hundred thirty times one hundred thousand guilders" (viz. 43 million guilders), not to mention the employment of one hundred and eighty ships and nearly nine thousand mariners. In sum, the Indies trade exceeded all the other commercial interests of the Dutch Republic combined in "capitalization, number and valor of personnel, as well as naval power." A voluntary or involuntary abandonment of this trade would reduce the country's military and naval capacity by fifty percent, "as our power and welfare must come from the sea for reasons explained above."¹⁵

Yet merchants were surely promoting their own self-interest, were they not? The author of *Statement of Important Reasons* admitted that no one went overseas except to make his own fortune. But he insisted that it was the state which would be worst affected by a Dutch withdrawal from the East Indies. In his view, the power of the state was directly related to the "power or wealth of private citizens." Although the United Provinces could not do without their inhabitants, the reverse was hardly true. Dutch merchants might migrate to other countries and continue the Indies trade from their new places of

¹⁵ *Memorie van de ghewichtighe redenen* ff. 1v–2r.

In his memorandum for the VOC directors, Grotius emphasized the insufficiency of Dutch agriculture and the importance of trade and navigation for the economy of the United Provinces. In his view, the country's shipping was its "only, or most important, means of defense." Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 410r, 411r, 415r–v. Modern historians have recently calculated the annual value of Dutch trade with the west coast of Africa and the Americas at the turn of the seventeenth century. According to Victor Enthoven and Ernst van den Boogaart, imports from the Caribbean were worth approximately 1 million Dutch guilders, excluding the income from salt from Punta de Araya. The Dutch share in the Guinea and Brazil trades fluctuated between 1 and 1.5 million Dutch guilders, and between 3 and 6 million Dutch guilders, respectively. Compare Victor Enthoven, 'Early Dutch Expansion in the Atlantic Region, 1585–1621' in: Johannes Postma and Victor Enthoven (eds.), *Riches from Atlantic Commerce: Dutch Transatlantic Trade and Shipping, 1585–1817* (Leiden: Brill Publishers, 2003) pp. 17–47, particularly p. 45.

residence. Their departure would cause economic hardship in the United Provinces, followed by a steep decline in population, all of which would diminish state power. There was another reason why the Dutch Estates General should put a high premium on the Indies trade. It created a potent reserve of warships and battle-hardened sailors, a valuable strategic advantage in times of war. The mightiest kingdoms did not judge their maritime power by the size of navies, but by “the proportion of [world] trade enjoyed by their countries.”¹⁶

Distrustful of Spanish motives, the author of *Statement of Important Reasons* feared that the peace negotiations were a clever ploy on the part of Philip III to “trap” his compatriots and force them to relinquish “the best part of our trade and navigation.” Once they had withdrawn from the East Indies and the state’s capacity to wage war had been halved as a result, Philip III could tear up the peace treaty with impunity, “taking everything all at once.” The Archdukes’ representatives admitted that the King had agreed to the peace talks for no other reason than to salvage his own colonial empire. Only a credible military and naval threat in the East Indies could motivate him to observe a peace treaty. The author of *Statement of Important Reasons* warned that “a shifting political and military situation” usually resulted in “a change of heart among princes.” He did not doubt that Philip III would renew the war once the VOC was no longer in a position to harass his naval and military forces. There could be no such thing as a temporary withdrawal from the East Indies. The natives, “our friends,” would bear the brunt of a gruesome Spanish revenge the moment the Company departed from the scene. Naturally, they would ban the Dutch from their hearts because of “our faithless betrayal.” A disbandment of the Company would make it impossible to resume the Indies trade at a later point in time.¹⁷

¹⁶ *Memorie van de ghewichtighe redenen* f. 2r.

Grotius noted in his memorandum for the VOC directors that it had been the Dutch Estates General which induced the Company to wage an offensive war in the East Indies. In his view, the federal authorities had greatly profited from the prizes captured by Dutch East Indiamen, not to mention the import and export duties paid by the VOC. Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 405r.

¹⁷ *Memorie van de ghewichtighe redenen* f. 2r–v.

Grotius made the same argument in his memorandum for the VOC directors. It would be impossible to resume the Indies trade after a disbandment of the VOC because a) the indigenous peoples would never trust the Dutch again, and b) the natives would be so afraid of the Spanish and Portuguese that they would not dare to trade with other European merchants. Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 409r, 410v, 411r.

The author of *Statement of Important Reasons* also believed that the honor and reputation of the United Provinces were at stake in the peace negotiations, and he used some fine Grotian arguments to prove his point. Since the VOC acted on behalf of the Dutch Estates General in allying itself with Asian princes and peoples, it would be utterly shameless to leave the latter at the mercy of the Spanish, whose enmity they had incurred for the Company's sake. Nor should Dutch merchants and mariners be denied "the free trade and navigation granted them by God, Nature and the Right of all Nations." They deserved the same support from the Dutch government as they had lent it "in our extremity." After all, they had risked their own lives and possessions in order to bring the Spanish to the negotiating table, not to mention the fact that it had taken "so much shedding of blood" and "so many excellent and pious deeds." As a matter of good faith, Their High Mightinesses should look after "the poorest citizen who had contributed to the common cause." They could certainly not afford to ignore the interests of twenty thousand investors in the Indies trade and an equal number of mariners gainfully employed beyond the Line. These sailors would sooner revenge themselves on the Holland and Zeeland regents than on the Spanish if they lost their livelihoods. The author of *Statement of Important Reasons* emphasized again that there was neither honor nor profit in a peace treaty that relinquished the Indies trade. It would scandalize the European allies of the United Provinces, who might justifiably question the trustworthiness of a state that betrayed its own citizens for a "specious title" and left its Asian allies in the lurch, even though the latter "have done us great and loyal service." Independence achieved at this price could not last long according to the author of *Statement of Important Reasons*. European friends would cease to be reliable allies, for example, once the United Provinces became less useful to them as a result of a decline in trade and a concomitant reduction in maritime power. This might also tempt the Spanish to break the peace. Should the volume of Dutch trade fall to pre-war levels, as some desired for the sake of peace, the Dutch Republic would soon be without a defense budget and could then be conquered "on the cheap" by its enemies.¹⁸

¹⁸ *Memorie van de ghewichtighe redenen* 2v–3r.

Grotius would have agreed with the author of *Statement of Important Reasons* on a number of points. In his memorandum for the VOC directors, he detailed the reverses suffered by indigenous princes and peoples because of their friendship with

The author of *Statement of Important Reasons* emphasized that, although the Dutch did not engage in the Indies trade before the war, they nonetheless had always been at liberty to do so under the law of nations (*jure gentium*). Even while his Burgundian inheritance was still intact, the King of Spain had never had any “lawful authority” to limit Dutch trade and navigation for the benefit of the Spanish. As rulers of the Low Countries, both Charles V and Philip II had pledged to “preserve the provinces and their inhabitants in the freedom of their trade and labor,” a right that doubtlessly included “free use of the sea and air, and the traffic of the whole world.” Their Dutch subjects had clearly been wronged by their blatant disregard for the solemn oaths which they had taken at their investiture or ‘joyous entry’ (*joyeuse entrée*). Nor did the last will and testament of Philip II make any difference in this respect. True, he had transferred the Southern Netherlands to Albert and Isabella on the condition that the Indies trade would remain off-limits to the Flemish and Walloons. This condition had not made the Low Countries “servile,” however, but the Archdukes themselves. The commercial privileges which the Dutch enjoyed before the beginning of the war had not been impaired in any way: “the freedom to trade and navigate in the whole world is ours still and cannot be taken away from us but by use of force or outright war.”¹⁹

the Dutch, and concluded that it would be dishonorable for the United Provinces to leave these princes and peoples at the mercy of Philip III. He also noted that unemployed sailors were likely to riot in the port towns of Holland and Zeeland, and that this could make life difficult for the local magistrates. Compare Grotius Papers at the *Dutch National Archives*, Supplement I, fol. 406r, 410v–411r.

¹⁹ *Memorie van de ghevoichtighe redenen* 3r

Interestingly, the author of *Statement of Important Reasons* shared Grotius’ view that the title of prescription or custom could not abridge, let alone abolish, freedom of trade and navigation. If merchants failed to frequent a particular area of the world for a longer or shorter period of time, this did not imply that they never had the right to trade there in the first place, or that they had lost this right due to the passage of time. As Grotius noted in *Mare Liberum*,

... in that other nations neglected to contract with the Indians they are not supposed to have done it for the Portugals’ sakes, but because they thought it was expedient for them so to do, which hindereth not that they should be less able (when profit shall persuade) to do that which before they did not. For that is a most certain rule delivered by the doctors that in those things which stand in free will and mere faculty, so that by themselves they work an act of that faculty only and not a new right, a thousand years are nothing worth, neither by title of prescription nor custom, which Vasquius teacheth proceedeth both affirmatively and negatively. For I am neither compelled to do that which I did freely nor to omit which I did not (Grotius, *The Free Sea* ed. Armitage p. 53).

If the Archdukes' representatives suggested otherwise, it just served to show that Spanish "craft and deceit" was behind the peace talks. The Archdukes and Philip III had promised to negotiate with the Dutch Republic "as free provinces, upon which they have no claim whatsoever," but still wished to burden it with an ignoble and outrageous servitude. Their proposals for a Dutch withdrawal from the East Indies also ignored the legal principle of *uti possidetis*, another precondition of the peace talks. Both sides were supposed to keep whatever they possessed on the first day of the armistice, unless they voluntarily agreed to exchange some towns or regions. Yet the Spanish negotiators sought to deprive the Dutch Republic of its finest treasure, "the possession and free use of two thirds of the sea and the entire globe." Without offering anything in return, they demanded the surrender of "all the places and trades of the Indies, along with the bigger part of our navigation and maritime power." Nor should it be thought that, in exchange for the Indies trade, Philip III would give Dutch merchants permission to trade with the Iberian Peninsula. Even if he did, he would grant them nothing new according to the author of *Statement of Important Reasons*. They had always dominated the Spanish trade, "his interdiction notwithstanding." The reestablishment of official trade relations must benefit the King of Spain alone. Philip III would fill his treasury with much-needed revenues from import and export duties, while having the Dutch merchants at his mercy. Back in 1598, the King had unexpectedly seized all Dutch ships in Iberian harbors. He could do the same thing again, in which case the consequences would be far worse. If a Spanish

Otherwise, there were some significant differences between Grotius' understanding of freedom of trade and navigation and the argument of *Statement of Important Reasons*. In his memorandum for the VOC directors, Grotius mentioned the eighth article of Philip II's donation, which barred the Archdukes' subjects from trading or navigating in the East Indies. Unlike the author of *Statement of Important Reasons*, he did not believe for a moment that the terms of the donation were in any way applicable to the Dutch Republic. Grotius also drew different conclusions from Philip II's alleged violation of his coronation oath. It justified his abjuration by the Dutch Estates General in 1581, but nothing more. Ancient Dutch liberties had no validity in the international arena, unless they could be shown to be natural rights as well. Natural law and *ius gentium* governed a) relations between states, whether in Europe or in the East Indies, and b) relations between people who found themselves (temporarily) in the state of nature—the crews of ships that traversed the high seas, for example. Although Grotius conceded that a prince might regulate commerce in his own territory, he insisted that no sovereign could ever deny either foreigners or his own subjects the natural right to travel and trade, provided they did not break the laws prevailing in his realm(s). Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 407r–408r; Grotius, *The Free Sea* ed. Armitage pp. 6–7, 39–52, 53–54.

trade embargo coincided with a Dutch withdrawal from the East Indies, it might well doom the United Provinces, as the VOC would be unable to resume its trade “for reasons explained above.”²⁰

Even if this doomsday scenario did not come true, the author of *Statement of Important Reasons* doubted that a withdrawal from the East Indies was compatible with the ideals of the Dutch Revolt. Had his compatriots spent so much money and spilt so much blood just to make themselves “bandits of two thirds of the world”? Why had they opposed Spanish tyranny in the first place if they seriously thought of accepting “so tyrannical an injunction,” which even prohibited their trade “with those who are not subject to him” [i.e. Philip III]. If they relinquished half their trade and navigation for the sake of peace, it had been unnecessary to oppose the Duke of Alba and his Tenth Penny tax, which would surely “have chased commerce away from our country.”²¹

Although the author of *Statement of Important Reasons* could think of many more reasons to oppose a Dutch withdrawal from the Indies, he believed that it was time to draw some conclusions. His compatriots were eager for a “pious, honest, absolute, general and genuine peace,” but loathed being brought “into greater servitude than ever before.” It was imperative for the Spanish negotiators to respect the two parameters of the peace talks, approved by both Philip III and the Archdukes: Dutch freedom and independence, and the legal principle of *uti possidetis*. Their High Mightinesses would be happy to oblige, however, if the Archdukes’ representatives wished to limit the peace to Europe “and leave the rest in a state of war.” Provided, of course, that the European peace remained inviolable, regardless of what happened in the Indies, and that no party could seek redress back home for damage inflicted beyond the Line. Grotius had made the exact same point in his memorandum for the VOC directors.²²

²⁰ *Memorie van de ghevoichtighe redenen* 3v.

Grotius could not have agreed more with the author of *Statement of Important Reasons*. He raised the exact same objections in his memorandum for the VOC directors. Compare Dutch National Archives, Supplement I, fol. 410v–411r.

²¹ *Memorie van de ghevoichtighe redenen* 4r.

²² *Memorie van de ghevoichtighe redenen* 4r; Dutch National Archives, Grotius Papers, Supplement I, fol. 411r, 413r.

Interestingly, Oldenbarnevelt’s proposals for a nine-year truce in the East Indies included a provision for the payment of reparations in case the Dutch and Portuguese inflicted damage on each other or on their Asian allies. The VOC directors were

III *Impartial Discussion of the Indies Trade*

The third VOC pamphlet, *Impartial Discussion of the Indies Trade*, must have been written at a much later date than the other two VOC pamphlets, *Discourse in the Form of a Petition* and *Statement of Important Reasons*. It is entirely possible that *Discourse in the Form of a Petition* was contemporaneous with Grotius' memorandum for the VOC directors. Like Grotius, the author of the pamphlet entreated the Dutch Estates General not to surrender the Indies trade before the start of the peace talks, but to make freedom of trade and navigation a non-negotiable demand instead. *Statement of Important Reasons* reflected the second stage of the negotiations in March 1608, when the Dutch Estates General tried to negotiate a peace treaty limited to Europe alone, which could be supplemented by a nine-year truce in Asia. The VOC directors voiced their public support for this compromise in the final paragraph of *Statement of Important Reasons*. The Archdukes' representatives, who were not authorized to make any concessions with regard to the Indies trade, could do little else than forward Oldenbarnevelt's proposals to the Habsburg court in Spain. Father Neyen was supposed to return with the King's answer within forty days of his departure. Because of his prolonged absence, Their High Mightinesses resolved on 21 May 1608, to set a deadline for the peace negotiations. If no agreement had been reached by 30 July, they would break off the talks. *Impartial Discussion of the Indies Trade* must have been written and published at this time of political uncertainty, roughly between 21 May and 30 July. Its author suggested that Philip III would be to blame for "all the bad consequences of war" if he rejected Oldenbarnevelt's proposals. Clearly, the VOC directors tried to influence the course of the peace negotiations once again. Yet they stopped short of making an explicit appeal to the Dutch Estates General to resume the hostilities right away, something which distinguished *Impartial Discussion of the Indies Trade*, along with the other two VOC pamphlets, from the average war party broadsheet published in the spring and summer of 1608.²³

probably less than enthusiastic about this provision, which would put an end to their lucrative privateering enterprise without, however, ensuring the safety of their Asian allies. Compare Du Bois, *Diplomatische Berichte an den Fürsten Ludwig zu Anhalt* Vol. I p. 231.

²³ *Onpartydich Discours opte Handelinghe van de Indien* A3r; *Resolutiën der Staten-Generaal, 1579–1609* Vol. 14 pp. 424, 624; Van Eysinga, 'De wording van het twaalfjarig

Impartial Discussion of the Indies Trade cannot be said to be a terribly original piece of writing in comparison with the other two VOC pamphlets. Indeed, its content is virtually identical to that of *Statement of Important Reasons*, down to such details as the annual profits of the Indies trade. Yet the pamphlet was unique in one respect: its author discussed the peace negotiations in terms of a) “interest” (*interest*), and b) “law” and (subjective) “right” (*recht*). The materials taken from *Statement of Important Reasons* were consciously rearranged to fit these two rubrics. The author informed his readers that he would first discuss the respective rights and interests of Philip III and Their High Mightinesses, then the injuries suffered by each, and, finally, the question which side should sacrifice its rights and interests for “the peace and welfare of all Christendom.” This novel format allowed him to elaborate some of the key arguments of *Statement of Important Reasons*.²⁴

Following his one-paragraph introduction, the author of *Impartial Discussion of the Indies Trade* took up the issue of freedom of trade and navigation. He conveniently conflated the notions of right, law and justice and repeated much of what had already been said in *Statement of Important Reasons*. Freedom of trade and navigation was the “common right of the human race,” just like the “use of the air is free and open . . . to everyone in the entire world.” Although piracy and war could impair free trade between peoples, his compatriots had enjoyed “a universal commerce” for many years, thanks to their many victories in battle. Philip III should choose between war and peace, and, if he opted for the latter, he should respect what was

bestand van 9 april 1609’ p. 117; Den Tex, *Oldenbarnevelt* Vol. II pp. 612–613, 619–621; Allen, *Philip III and the Pax Hispanica* pp. 211–220; Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 20–41, 49–52, 57–59.

Although Ronnie Kaper does not emphasize this point, it is clear from his analysis of both war party broadsheets and VOC pamphlets that their contents were quite different.

In theory, *Impartial Discussion of the Indies Trade* could have been published between 30 July and 25 August 1608, the day that witnessed the official collapse of the peace talks. Yet *Dutch Beehive*, including *Impartial Discussion of the Indies Trade*, was banned on 23 August 1608. Presumably, it had taken a while for the editors of *Dutch Beehive* to collect thirty pamphlets on the peace negotiations and prepare their compilation. On those grounds alone, *Impartial Discussion of the Indies Trade* should be dated before, not after, 30 July 1608.

²⁴ *Onpartydich Discours opte Handelinghe van de Indien* A2r, 1r; *Memorie van de ghegewichtighe redenen* 1v–2r.

theirs by right, not to mention custom and prescription. This did not exhaust the legal aspects of the case, however. In discussing the interest of the King of Spain, the author of *Impartial Discussion of the Indies Trade* noted that there could be no injury without a prior right and that freedom of trade and navigation could hardly harm a monarch who did not have the law on his side. The VOC did, of course, threaten the King's vested interest in "monopoly and violence." The author's definition of a commercial monopoly was an interesting one: "a conspiracy of merchants, who buy goods for the purpose of selling them at their pleasure and for the highest price possible." What did he have in mind here? He made no mention of the merchant consortiums that had contracted with the Portuguese Crown for the shipment of spices via the Cape route and their distribution in Western Europe in the second half of the sixteenth century. Instead, he focused on the revenues that Philip III received from import and export duties, "the sinews of his power." Since the King imposed a 20% tax on all trade between the Iberian Peninsula and his colonies, he had every incentive to keep Dutch merchants out of the Indies trade. Yet the author seemed unwilling to rationalize power politics to such an extent as to reduce it to financial calculations pure and simple. Despite the rhetoric of interest, he remained convinced that behind it all was a Habsburg craving for universal monarchy, "an ambition to be so powerful as to cause turmoil in the whole world."²⁵

The author of *Impartial Discussion of the Indies Trade* drew heavily on *Statement of Important Reasons* in discussing the interest of the Dutch Estates General. Although the subject heading suggested otherwise, he was happy to mix *raison d'état* with considerations of natural justice. He started off with the observation that if the injustice and injuriousness of slavery was unbearable to a "honest heart," so must be a self-imposed exile from three-quarters of the world, a punishment appropriate for criminals only. Yet he was clearly more comfortable discussing the economic and strategic value of Dutch commerce. Without the Indies trade, a small, "marshy" country like the United Provinces could not feed "a sixth of its current population," let alone sustain the war effort against Spain. He agreed with the writer of

²⁵ *Onpartydich Discours opte Handelinghe van de Indien* A1r-v; *Memorie van de ghewichtighe redenen* 1r-v, 2v, 3r.

Statement of Important Reasons that Their High Mightinesses would be ill advised to revoke the VOC charter as a concession to Philip III. The Company's dissolution would scatter Dutch merchants and mariners to the wind and leave its Asian allies at the King's mercy, which would effectively prevent a resumption of the Indies trade in the future. Meanwhile, Philip III could quietly enjoy his colonial empire and restore his royal finances, which would allow him to rebuild his armada and man it with unemployed Dutch sailors, all for the purpose of attacking the United Provinces, of course. The author of *Impartial Discussion of the Indies Trade* shared the view of the writer of *Statement of Important Reasons* that only "our naval power" could compel the King of Spain to observe a peace treaty. He proceeded to list the number of ships and sailors involved in each branch of the Indies trade—the figures were taken from *Statement of Important Reasons*—and gave an estimate of their battle-readiness. There was a direct relationship between the naval power of the Dutch Republic and the support that it enjoyed in international politics, again an argument taken from *Statement of Important Reasons*. Without commerce and trade, the United Provinces could not rely on its European allies anymore, who would have nothing to gain from a declining naval power. The author of *Impartial Discussion of the Indies Trade* also borrowed heavily from *Statement of Important Reasons* in his analysis of the Dutch preconditions for the peace talks. Both Philip III and the Archdukes had recognized the United Provinces as "free states and countries" and accepted the legal principle of *uti possidetis* as the basis for the negotiations. Hence they could not demand anything that would "lessen our freedom and impose slavery upon us." The author of *Impartial Discussion of the Indies Trade* emphasized that the legal principle of *uti possidetis* applied to current possessions—it was immaterial that his compatriots had never visited the Indies before the Dutch Revolt. He closely followed the script of *Statement of Important Reasons* in denying that Holland and Zeeland merchants could be excluded from the Indies trade on the grounds of an alleged title of prescription or the last will and testament of Philip II. His compatriots had always had the right to trade and navigate in the Indies by virtue of the law of nations (*jure gentium*), "as did all other nations, including the Spanish when they first went there." No treaty or legislation had ever taken away this natural right. Nor were the United Provinces under any kind of obligation to observe the conditions upon which the Archdukes had inherited the Low Countries from

Philip II. These conditions affected the Dutch Republic as little as the laws of Spain itself.²⁶

The author turned his attention to the “common interest of Christendom” on the penultimate page of *Impartial Discussion of the Indies Trade*. He was particularly concerned about the welfare of the European allies of the United Provinces. He admitted that the war between the Dutch Estates General and the King of Spain had been detrimental to “the whole of Christendom,” including the neighbors of the Dutch Republic. Philip III bore the blame, of course. Their High Mightinesses and the Archdukes could easily have solved the few differences between them. It was the King of Spain, however, who had already rejected the Dutch offer of a comprehensive peace, which would have given both parties unrestricted access to each other’s ports and markets around the globe. Should the King also dismiss Oldenbarnevelt’s proposal for a peace restricted to Europe, he alone would be responsible for “all the terrible consequences of war.” The author of *Impartial Discussion of the Indies Trade* was convinced that Philip III had no real desire for peace and just harassed the Dutch Republic and its neighbors for the sake of “his unjust claims to the Indies.” These royal tactics could easily backfire in his opinion: Their High Mightinesses would have no lack of allies if the Spanish monarch chose to continue the war. Yet the establishment of a “very powerful West India Company” was the best guarantee for a secure and lasting peace. Since Philip III had already lost forty galleons and many sailors, and since he was keenly aware of the threat that a Dutch West India Company would pose to his colonial revenues, it should not be too difficult to persuade him to accept a peace treaty on Dutch terms. In case the King preferred a European to a global peace, the merchants of Holland and Zeeland would be happy to “debate any outstanding differences in the Indies ourselves.”²⁷

²⁶ *Onpartydich Discours opte Handelinghe van de Indien* A1v–A2v; *Memorie van de ghewichtighe redenen* 1v–2v, 3r–v.

²⁷ *Onpartydich Discours opte Handelinghe van de Indien* A3r–v; *Memorie van de ghewichtighe redenen* 2r, 3v, 4r.

The writers of *Discourse in the Form of a Petition and Statement of Important Reasons* never even mentioned the plans for a Dutch West India Company, which had been shelved indefinitely by Oldenbarnevelt and the Estates of Holland in February 1608. War party pamphlets did, however, clamor for its establishment.

The most vocal advocate of a West India Company was undoubtedly the Amsterdam

The author of *Impartial Discussion of the Indies Trade* denied that Dutch demands for freedom of trade and navigation were in any way unreasonable. Philip III would grant Their High Mightinesses “neither town nor country nor anything else in his power,” except, of course, for peace itself. He should abandon his exclusive claims to the extra-European world for the sake of a secure and lasting peace—otherwise it might easily be broken “under the pretext of his pretensions.” It made no sense for the Dutch to accept a peace treaty that deprived them from “both its effect and essential nature, meaning commerce.” The author of *Impartial Discussion of the Indies Trade* repeated that freedom of trade and navigation was “an indubitable right, beyond dispute among all nations,” which could never be denied to anyone, except “by means of war and piracy.” The Dutch wanted peace and offered it, but insisted that “the gift and donation be equal and reciprocal on both sides.” Whosoever wished to rely on the advantages afforded him by war should simply decline an offer of peace. Considering the dismal state of his colonial empire, Their High Mightinesses had, in fact, done the King of Spain a big favor by proposing a worldwide peace. If they had continued the hostilities for just one year, Philip III could have been dispossessed of far more than he and his father had ever managed to conquer in forty years of war. The author of *Impartial Discussion of the Indies Trade* concluded that it was the King of Spain who demanded everything, yet offered little in return. Philip III still sought to gain “possession of the whole sea” (*possessionem totius Maris*). In return for an “imaginary title” of independence and sovereignty, his compatriots were asked to abandon “the commerce of three fourths of the globe, yea, of the whole world, which is the foundation of our power and means of defense.” There was, then, little chance of a secure and lasting peace according to the author of *Impartial Discussion of the Indies Trade*.²⁸

merchant Willem Usselinx (1567–1647), who presented his plans to the Estates of Holland and Dutch Estates General in one petition after another. Predictably, Usselinx published three pamphlets in 1608 denouncing the Peace and Truce negotiations with Philip III. His pamphlets painted a very rosy picture of the possibilities of Dutch colonization on the Wild Coast of South America. The titles of his pamphlets are *Bedenckingen over den Staet van de Vereenichde Nederlanden* (Kn 1438), *Naerder Bedenckingen* (Kn. 1441), and *Vertoogh, hoe nootwendich* (Kn. 1442).

Compare Ligtenberg, *Willem Usselinx* pp. 49–74; Kaper, ‘Pamfletten over Oorlog of Vrede’ pp. 61–64; Klooster, *Illicit Riches* pp. 17–36.

²⁸ *Onpartydich Discours opte Handelinghe van de Indien* A3v–4r; *Memorie van de ghegewichtige redenen* 1r, 2v, 3r–v.

The pessimism of *Impartial Discussion of the Indies Trade* and its distrust of Spanish motives raise an important issue. To what extent did the three VOC pamphlets reflect the views of Oldenbarnevelt's opponents in Dutch politics? If the authors of *Discourse in the Form of a Petition* and *Statement of Important Reasons* borrowed extensively from Grotius' memorandum for the VOC directors, could they have derived other parts of their argument from war party pamphlets published in the spring and summer of 1608? Or were the three VOC pamphlets quite distinctive in both style and contents? What was, in fact, the relationship between the Company and the war party during the peace negotiations? Did the VOC directors support the hawkish policies of Prince Maurice and his minions? Or was their position a different one? Although there are no extant minutes of the meetings of the Gentlemen XVII in the winter and spring of 1608, it is nonetheless possible to establish their relative independence from the war party at this critical juncture. There are indeed more differences than similarities between the VOC pamphlets and the war party publications. The Gentlemen XVII must have realized that, in their capacity as VOC directors, it was inappropriate and, in fact, quite risky to completely identify themselves with one political faction in the Dutch Republic.

The opponents of Oldenbarnevelt's peace policies—Prince Maurice, the Amsterdam magistrates and the Estates of Zeeland, to name a few—certainly welcomed the Company's forceful defense of its commercial interests in the winter of 1608. Prince Maurice used its pleas for freedom of trade and navigation as a convenient foil for his own opposition to the peace talks during the first stage of the negotiations in February and March 1608. This did not make the Stadtholder a spokesman for the Company, however. His eagerness to derail the negotiations was shared by few VOC directors, not publicly at least. It cannot be emphasized enough that both Grotius' memorandum for the Gentlemen XVII and the three VOC pamphlets all accepted the peace talks as a fact of life. True, the Gentlemen XVII decided at their meeting in Middelburg of 9 July 1608 to send a new fleet to the East Indies in the winter of that year. The directors who "normally" represented the Company in The Hague were instructed to request a "subsidy from the Dutch Estates General for warships and their equipment, since the outcome of the peace negotiations is still in doubt." This was entirely consistent with the Company's own position on the peace talks. Unlike the war party enthusiasts, the

Gentlemen XVII had no wish to persuade the Dutch Estates General to break off the negotiations. Yet they certainly expected the Dutch Estates General to stick to its guns. The King of Spain had been presented with a clear-cut choice between worldwide peace, including freedom of trade and navigation for Dutch merchants everywhere, and a peace limited to Europe alone, meaning a continuation of the war beyond the Line. Judging by *Statement of Important Reasons*, the VOC directors would be happy with either arrangement. The political uncertainty of the summer of 1608 may well have inclined them to the view that Philip III preferred the second option and that hostilities would not cease in the East Indies for a while yet, an entirely reasonable assumption, shared by the likes of Jeannin. In this context, it made perfect sense for the Gentlemen XVII to send warships to the East Indies and request the assistance of Their High Mightinesses in procuring these from the Dutch Admiralty Board.²⁹

IV *The VOC and the War Party*

A comparison between typical war party publications and the three VOC pamphlets bears out the Company's relative independence in Dutch politics. On the whole, the differences outweigh the similarities. Significantly, war party pamphleteers never discussed the Company's response to the peace negotiations. If they mentioned the Indies trade at all—and not many of them did—they considered it one more example of the profitability of war and the bad faith of the King of Spain. The few who discussed the Company's predicament were quite selective in their borrowing from the three VOC pamphlets. Philip III allegedly used the issue of the Indies trade to create internal divisions in the Dutch Republic and dupe it with a phony peace. His offer to reopen Iberian ports to Dutch merchants was motivated by a desire to undermine the VOC and lull Their High Mightinesses into a false sense of security. A Dutch withdrawal from the East Indies would give him the chance to increase the colonial revenues of the Portuguese and Spanish Crowns, all with a view

²⁹ *Les Négociations de monsieur le President Jeannin* Vol. II pp. 157, 228, 235–236; *Resolutiën der Staten-Generaal, 1607–1609* (RGP 131) pp. 370–372, 893; Dutch National Archives, VOC 100, f.4; Den Tex, *Oldenbarnevelt* trans. Powell pp. 383–410.

to attacking the United Provinces at some future date. These arguments were never developed at any length, however. The plight of the VOC was of secondary importance to most war party pamphleteers. The focus of their fears was quite different. They were convinced that Spanish armies and Jesuit missionaries would overrun the United Provinces the moment a peace treaty took effect. Nor did they need to mention the Indies trade as proof of Philip III's bad faith. The harrowing events of the Dutch Revolt, along with the forty years of warfare that had followed it, provided them with ample ammunition in this respect. A typical example was, in fact, *Le Plaidoyer de l'Indien Hollandois*, traditionally interpreted as a VOC pamphlet. Its writer combined some factual information from *Statement of Important Reasons* with an overtly Calvinist perspective, including a vehement tirade against the King of Spain and pointed references to the godly martyrs of the Dutch Revolt, the Prince of Orange and the Counts of Egmont and Horne. Indeed, the pamphlet's last line was a variation on the dying words of William the Silent—*Mon Dieu, Mon Dieu, ayez pitié de moi et de mon pauvre peuple*. These were sentiments typical of the war party publications, and wholly absent from *Discourse in the Form of a Petition*, *Statement of Important Reasons*, and *Impartial Discussion of the Indies Trade*. Judging by the differences in style and contents, *Le Plaidoyer de l'Indien Hollandois* was no VOC pamphlet at all. Even though it counted war party sympathizers among its directors—the Amsterdam burgomaster Reynier Pauw being the most obvious example, the VOC simply could not afford to side openly with the diehard opponents of Oldenbarnevelt's peace policies.³⁰

³⁰ *Proeve des nu onlangs wyt-ghegheven drooms* Kn. 1401 (n.p., 1608?) p. A2v; *Discours of t'samensprekinghe tusschen den coning van Spaengien ende Jan Neyen, vanden vrede-handel der Vereenichde Nederlanden* Kn. 1418 (n.p., 1608) f. 2v–3v; *Consideration vande vrede in Nederlandt gheconcipteert, anno 1608* Kn. 1447 (n.p., 1608) f. A2v; *Een oud schipper van Monicken-dam* Kn. 1466 (n.p., 1608?) f. 2v–3r; *Den Nederlandtschen Bye-Korf* Kn. 1474 (n.p., 1608) f. A2r; *Buyr-praetjen: ofte tsamensprekinge ende discours* Kn. 1525 (n.p., 1608) f. A3v–A4r, B2v–B3v; Kaper, "Pamfletten over oorlog en vrede" pp. 15–25, 28–36, 57–59, 70; Schmidt, *Innocence Abroad* pp. 68–122, 170–184; Andrew Sawyer, 'The Tyranny of Alva: The Creation and Development of a Dutch Patriotic Image', *De Zeventiende Eeuw* (2003) pp. 181–211; Schama, *The Embarrassment of Riches* pp. 51–125; *Le Plaidoyer de l'Indien plaidoyer de l'Indien Hollandois* Kn. 1435 (n.p., 1608) f. 2v–4r; *Memorie vande ghegewichtige redenen* p. lv.

It is entirely possible, of course, that Reynier Pauw and his cronies were behind *Le plaidoyer de l'Indien Hollandois*. Yet there are grounds for believing that the pam-

War party publications differed from VOC pamphlets on other points as well. They were overwhelmingly concerned with the fate of the 'True Protestant Religion', in marked contrast to the VOC pamphlets. This is not entirely surprising: war party pamphleteers were mostly Calvinist clergymen, who cared little for trade and navigation in some faraway place, but dreaded the unholy Trinity on their doorstep—the King of Spain, the Pope in Rome, and the ubiquitous Society of Jesus. Since the Pope could absolve Philip III from any promises made to Protestant rebels, peace would leave the United Provinces dangerously exposed to the Army of Flanders, especially if the forces of Prince Maurice were disbanded by the Dutch Estates General. Even more worrisome was the threat posed by the enemy within. The Calvinists' worst nightmare was, of course, a revival of 'popish superstition' in the Dutch Republic, either officially—a peace treaty that sanctioned freedom of worship for Catholics—or unofficially—the town magistrates turning a blind eye on Jesuit missionary activity. This was not an unreasonable fear. Freedom of conscience ensured the survival of large Catholic minorities in the towns of Utrecht, Haarlem, Hoorn, Alkmaar and Amersfoort, while new Catholic communities were established in Amsterdam and Rotterdam during the Twelve Years' Truce. The clergymen-cum-pamphleteers were also irked by the fact that the secular authorities were decidedly unwilling to support the Dutch Reformed Church in its crusade against public vice. The author of *Philopatris or Christian Announcement* (1608) lamented the deterioration of morals—drunkenness and gambling were allegedly rife among the youth—and begged the Dutch regents to undertake action. As Christian magistrates, they should say their prayers frequently and impose a reformation of manners on the unregenerate masses. The Dutch Republic could never be a shining City on the Hill unless it purified itself from heresy and sin. The author was not optimistic about the authorities' response. He

phlet originated outside VOC circles. It was not based on any kind of inside information, for example, unlike *Discourse in the Form of a Petition and Statement of Important Reasons*. The author of *Le plaidoyer de l'Indien Hollandois* derived his factual knowledge from *Statement of Important Reasons*, in fact. This suggests that *Le plaidoyer de l'Indien Hollandois* was published much later than the two VOC pamphlets, probably in the summer of 1608, when increasing political uncertainty—rumors abounded that Philip III had rejected Oldenbarnevelt's proposal for a nine-year truce in the Indies—emboldened the war party pamphleteers.

wondered aloud why Their High Mightinesses had failed to decree a public day of fasting in order to beseech the Almighty's blessings on the peace negotiations. He concluded that it must be out of fear for the Church's reaction—its ministers might take advantage of the situation and denounce the peace talks from the pulpit, a charge he vehemently denied, of course. It was a revealing outburst. Like so many other Calvinist clergymen, the author of *Philopatris or Christian Announcement* believed that, in edifying his flock, he simply did his duty under God and the magistrate. It was precisely for this reason that he agitated against the peace negotiations. No self-respecting minister could let Dutch regents destroy the New Jerusalem and sell out to the Spanish.³¹

The remarkable differences in style and contents between the war party publications and the three VOC pamphlets suggest that Dutch historians have misinterpreted the Company's response to the peace negotiations of 1608. The VOC was no mere extension of the war party, but an independent force in Dutch politics. Although the peace talks polarized the political elite of the United Provinces, more parties were involved in the decision-making process in the Dutch Estates General than just the factions of Oldenbarnevelt and Prince Maurice. Nor did the Company's interests coincide *in toto* with the political agenda of either faction. Its directors realized that the VOC would be better off if they did not pronounce on the question of war and peace as such, but lobbied Their High Mightinesses to obtain substantial guarantees for its trade and navigation. They brilliantly succeeded in their aims: the VOC was the big winner of the Peace and Truce negotiations of 1607–1609.³²

V *Hugo Grotius and VOC Pamphleteering*

Where did this leave Grotius and *Mare Liberum*? Was there any kind of resemblance between *Mare Liberum* and the VOC pamphlets of

³¹ Harline, *Pamphlets, Printing, and Political Culture in the Early Dutch Republic* pp. 134–154; Van Otegem, 'Tijd, snelheid, afstand; de mechanica van het pamflet' pp. 58–59; *Philopatris, ofte Christelijck bericht* Kn. 1481 (Middelburg, 1608) *passim*; *Generale Vermaninghe aenden Switseren* Kn. 1485 (Middelburg, 1608) B4v, C1v; *Ware Verthooning ende Afbeeldinghe* Kn. 1540 (Middelburg, 1608) B2v–C1v; Schama, *The Embarrassment of Riches* pp. 51–220, 323–371.

³² Den Tex, *Oldenbarnevelt* trans. Powell pp. 359–422; Israel, *The Dutch Republic: Its Rise, Greatness, and Fall, 1477–1806* pp. 399–410; Veen, *Decay or Defeat?* pp. 159–166; Boyajian, *Portuguese Trade in Asia under the Habsburgs* pp. 86–127.

1608? Why did Grotius wait until April 1609 to publish it? What explains his strange silence on political affairs in the summer and autumn of 1608? Dutch historians have traditionally regarded Grotius' exposé of April 1607 as evidence of his opposition to the peace talks. Grotius' letter to George Lingelsheim of 26 January 1608 is usually seen as supporting evidence for this interpretation, even though the peace negotiations are only mentioned at the very end of the letter. Grotius intimated to Lingelsheim that a peace treaty was a real possibility if the Archdukes' representatives conceded "enduring liberty, and for the rest, those things which pertain to security arrangements and trade." Grotius was not optimistic, however. He feared that

they have resolved to dupe us, who expect peace, with long armistices, which I consider to be most dangerous for our unsettled commonwealth.

He concluded his letter to Lingelsheim with an ambiguous ode to peace. In case his compatriots did not deserve her blessings, he beseeched the goddess of peace to

Grant, oh generous lady, that they may be victorious in war
who seek to end the hostilities [i.e. the Dutch]
Grant, Oh Goddess, that they may perish badly
who wage war by means of negotiations [i.e. the Spanish]

These were sentiments typical of the war party. Yet did it make Grotius an opponent of Oldenbarnevelt's peace policies?³³

³³ *Briefwisseling van Hugo Grotius* Vol. 1 pp. 95–96 (Grotius to G.M. Lingelsheim, 26 Jan. 1608).

Grotius voiced his apprehension at the Republic's constitutional imperfections and its popular politics in other writings as well. He brought it up in his letter of 21 April 1607, for example, discussing the armistice between the Dutch Estates General and the Archdukes. He questioned whether "in such a popular state," rife with internal dissension, a peace treaty with Philip III was really the best means to put the government on a more secure footing. In his view, it was the common fear of the enemy that had ensured the Republic's survival since the days of the Revolt.

In *De Republica Emendanda*, written around the turn of the seventeenth century, Grotius had argued that Holland was a perfect republic, but not the United Provinces as a whole. Eager to remedy this situation, he had proposed that the Dutch Estates General appoint its own members for life in order to create a strong central government. Ironically, he reversed his position during the Twelve Years' Truce, when the strife between two factions in the Dutch Reformed Church, the Remonstrants and Contra-Remonstrants, pitted the Estates of Holland against Their High Mightinesses. Grotius' change of opinion was by no means unrelated to the fact that he made his political career as one of Oldenbarnevelt's protégés. He was

Grotius' initial uneasiness at the peace talks, evident in his letter to Lingelsheim, was soon counterbalanced by his admiration for Jeannin's skilful mediation between the Archdukes' representatives and Their High Mightinesses. He was on intimate terms with the French envoy and dedicated the tragic play *Christus Patiens* to him. The dedicatory letter of early March 1608 testified to his unbounded faith in Jeannin, who played the dual roles of honest broker and faithful ally to perfection. Both Henry IV and Jeannin were eulogized for the steadfast support that they had lent the Dutch Estates General. Grotius portrayed the French monarch as the wisest of princes and most magnanimous of allies, who, cognizant of the dangers faced by the Dutch, had sent his privy councilor to The Hague in order that they might "wage war bravely, or make peace prudently." They could not have wished for a better friend and adviser according to Grotius, who noted that

... be it in talks with the enemy, be it in meetings with [the envoys of our] neighbours, be it you [i.e. Jeannin] demanded a resolution from the Dutch Estates General, you have given your verdict not as a Frenchman, but as one of ours.

Since the peace talks were in such capable hands, Grotius became less apprehensive at its outcome. Indeed, the topic disappeared from his correspondence entirely until November 1608, when the Zeeland VOC directors wrote to him to request the publication of *Mare Liberum*.³⁴

Why should Grotius have paid so little attention? The eight-month period that separated the dedicatory letter of *Christus Patiens* from the commissioning of *Mare Liberum* was not exactly devoid of political drama. As early as June 1608, rumors circulated in The Hague that

appointed Solicitor General of Holland (*Advocaat-Fiscaal*) in November 1607 and became a member of the Estates of Holland in June 1613.

Compare *Briefwisseling van Hugo Grotius* Vol. I p. 85; Eysinga, 'De wording van het twaalfjarig bestand van 9 april 1609' p. 91; Hugo Grotius, *De Republica Emendanda* ed. Arthur Eyffinger *et al.* *Grotiana* (New Series) 5 (1984) pp. 34, 55–56, 59–61, 113–121; Grotius, *Ordinum Hollandiae Ac Westfrisiae Pietas* ed. Rabbie pp. 1–46, 61–72, 174–231; Tuck, *Philosophy and Government* pp. 162–164.

³⁴ *Briefwisseling van Hugo Grotius* Vol. I pp. 98–100, 126, 128–129.

Grotius made a brief reference to Jeannin's return from France in a letter of 18 August 1608, addressed to his brother in law Nicolaes van Reigersberch. The embassy of Don Pedro de Toledo, Marquis of Villefranca, had detained Jeannin at the French court for six weeks.

Philip III had rejected Oldenbarnevelt's proposal for a nine-year truce in the East Indies. The climax came at the end of August, when Jeannin and Oldenbarnevelt presided over the collapse of the peace talks, only to resurrect them immediately in the form of truce negotiations. It infuriated Prince Maurice and his supporters, who sought to undo the negotiations altogether. The war party published a plethora of pamphlets over the course of the summer, and, come autumn, appealed directly to the eighteen voting towns represented in the Estates of Holland, all in an effort to put pressure on the Dutch Estates General. In the midst of these upheavals, Grotius managed to maintain complete silence on the Peace and Truce negotiations. Why?³⁵

Grotius may have had a mixture of reasons for his reticence, both private and professional. Judging by his correspondence in the summer of 1608, he was preoccupied with the wedding of his Zeeland friend Johan Boreel, eldest son of VOC director Jacob Boreel, and his own marriage to Maria van Reigersberch, a burgomaster's daughter, born and bred in the Zeeland town of Veere. Grotius wrote urgent letters to their mutual friend Daniel Heinsius, a young don at Leiden University, to persuade him to travel into Zeeland together and to commission poems in celebration of both weddings. Grotius did his part by writing a long, yet elegant epithalamium for Johan Boreel and his bride Agnes. Otherwise he spent his time preparing for his own nuptials and setting up a new household in The Hague. Yet there may also have been professional reasons for his remarkable silence on the Peace and Truce negotiations. Grotius owed his position as the Solicitor General of Holland (*Advocaat-Fiscaal*) to the patronage of Oldenbarnevelt. Their relationship was so close that, at one point, Grotius literally roomed opposite his political patron in the same street in The Hague. Consequently, he could not publish anything in defense of the VOC without Oldenbarnevelt's knowledge and consent. So much is clear from the printing history of *Mare Liberum*, which will be discussed below. The war party's tactics must also have given Grotius pause. When he looked back at the negotiations in *Annales et Historiae*, he lamented "the wantonness of the

³⁵ Van Eysinga, 'De wording van het twaalfjarig bestand van 9 april 1609' pp. 117–137; Den Tex, *Oldenbarnevelt* Vol. II pp. 606–660; Kaper, 'Pamfletten over oorlog en vrede' p. 70; Allen, *Philip III and the Pax Hispanica* pp. 212–233.

common people in distributing blue books as one of the greatest calamities of this Republic.” As a scion of the Delft patriciate, Grotius clearly felt uncomfortable with the war party’s pamphleteering frenzy. Significantly, he addressed himself to the “Princes & Free States of the Christian World” in the preface of *Mare Liberum*, which was first published in Latin, not Dutch. It must be concluded, then, that the author of *Mare Liberum* kept the war party at arm’s length out of loyalty to Oldenbarnevelt and because he distrusted its shameless populism. He certainly did not offer his support when it mattered most, in the summer and autumn of 1608.³⁶

Given Grotius’ political convictions, it is hardly surprising that *Mare Liberum* bears a greater resemblance to *Discourse in the Form of a Petition, Statement of Important Reasons and Impartial Discussion of the Indies Trade* than to any war party publication. The similarities are particularly striking in the case of *Mare Liberum*’s introduction and conclusion, written in the winter of 1608/09. (Otherwise, the treatise is a literal copy of chapter twelve of *De Jure Praedae*.) There are some differences, of course. The three VOC pamphlets that were published in the spring and summer of 1608 were rather brief and haphazard in their references to natural rights and natural law, whereas *Mare Liberum* provided a comprehensive theoretical treatment of the freedom of trade and navigation. Yet all four writings made similar points about the indefeasibility of natural rights, about the full sovereignty enjoyed by Asian princes and peoples, who were at liberty to trade with whomsoever they wished, and about the impossibility of anyone owning the sea or restricting its free use on the basis of prescription. The author(s) of *Discourse in the Form of a Petition, Statement of Important Reasons and Impartial Discussion of the Indies*

³⁶ *The Poetry of Hugo Grotius, 1604–1608* pp. 73–74, 192–201; *Briefwisseling van Hugo Grotius* Vol. I pp. 106, 115–117, 119–120, 122, 123, 126; *Briefwisseling van Hugo Grotius* Vol. XVII p. 41; H.J.M. Nellen, *Hugo de Groot: de loopbaan van een geleerd staatsman* (Weesp, 1985) pp. 89–93; Florike Egmond, “Hugo de Groot en de Hoge Raad: over connecties tussen geleerden, kunstenaars, juristen en politici” and R. Huijbrecht, “Hugo de Groot als advocaat-fiscaal van het Hof van Holland, Zeeland en West-Friesland, 1607–1614” in *De Hollandse Jaren van Hugo de Groot* ed. H.J.M. Nellen and J. Trapman (Hilversum: Verloren, 1996) pp. 31–56; *Nederlandsche Jaerboeken en Historien* p. 565; Grotius, *The Free Sea* ed. Armitage p. 5.

Johan Boreel (1577–1629) married the wealthy Middelburg heiress Agnes Hayman in early June 1608. Grotius wedded Maria van Reigersberch (1589–1653) on 17 July 1608. Grotius and his wife had three sons and two daughters who survived into adulthood.

Trade would undoubtedly have agreed with the way Grotius outlined the issues at stake in the preface of *Mare Liberum*:

These things are litigious between the Spaniards and us: whether the huge and vast sea be the addition of one kingdom (and that not the greatest); whether it be lawful for any people to forbid people that are willing neither to sell, buy nor change nor yet to come together; and whether any man could ever give that which was never his or find that which was another's before, or whether the manifest injury of long time give any right.

Grotius was, however, reluctant to mimic the pamphlets' explicit appeal to the Dutch reading public, the political and mercantile elites of Holland and Zeeland in particular. *Discourse in the Form of a Petition*, *Statement of Important Reasons* and *Impartial Discussion of the Indies Trade* had clearly been published in order to put pressure on the magistrates of Holland and Zeeland and, through them, on Their High Mightinesses. The intended audience of *Mare Liberum* was a much broader one. When the Zeeland VOC directors wrote to Grotius in November 1608, they were quite explicit about their motives for commissioning the publication of *Mare Liberum*. It was Grotius' task to

assure the inhabitants of these provinces of the worthiness of the cause, in case some still doubt it, and, more importantly, [to] encourage neighboring princes and monarchs to help defend the nation's rights.

Needless to say, Grotius did just that in *Mare Liberum*. He called upon the "Princes & Free States of the Christian World" to support the Dutch Estates General in its conflict with Philip III, and explained that "the king of all the world hath commanded you to take notice and punish all other men's faults." Yet Grotius appealed to two other "judges" as well: "every man's own conscience and fame, or other men's estimation of them." Did he want to have his cake and eat it too? In the last chapter of *Mare Liberum*, he certainly suggested that

[A] good man judging it would adjudge liberty of merchandise unto the Hollanders and would forbid the Portugals and others who hinder that liberty to do any violence, and would command them to restore their losses. But that which should be obtained in judgment, where justice could not be had by just war should be revenged.

If natural law was 'right reason', innate in all men regardless of race or religion, it should be evident to every reader of *Mare Liberum* that the Dutch were justified in their plea for freedom of trade and

navigation. Yet Grotius had no intention of winning popular support for the VOC. Instead, he affirmed the conclusions of *De Jure Praedae*. If James I of England and Henry IV of France refused to intervene on behalf of the VOC—a distinct possibility—and “justice could not be had,” the Company would have every right to resume its “just war” against the Portuguese. *Mare Liberum* served to legitimize the continuation of the war in the East Indies during the Twelve Years’ Truce, something that Grotius and the VOC directors had expected (and hoped for) all along.³⁷

The divergence in authorial intentions explains various dissimilarities in modes of argumentation between *Mare Liberum* on the one hand and *Discourse in the Form of a Petition, Statement of Important Reasons* and *Impartial Discussion of the Indies Trade* on the other hand. Different goals called for different means of achieving them. Grotius was shrewd enough to emphatically deny in the preface of *Mare Liberum* that freedom of trade and navigation depended on “the state of our commonwealth and liberty scarce gotten.” Unlike the author(s) of the other VOC pamphlets, he avoided the temptation of grounding freedom of trade and navigation in the sovereignty and independence of the Dutch Republic. Grotius knew full well that Philip III’s rejection of a comprehensive peace agreement prevented the United Provinces from attaining that status in international politics. Instead, he adopted a style of reasoning suited for an international audience. He emphasized in the preface of *Mare Liberum* that his argument was derived from the writings of “the principal doctors of the divine and humane law” among the Spanish, and even from “the proper laws of Spain.” Francisco de Vitoria and Fernando Vázquez de Menchaca were indeed the twin pillars of Grotius’ natural right and natural law theories, both in *De Jure Praedae* and *Mare Liberum*. His fulsome praise of Catholic theologians and jurists was calculated to appeal to the Catholic allies of the United Provinces, such as Henry IV of France, who otherwise could cite only *raison d’état* to justify his support for the Dutch rebels and heretics. Both Vitoria, in *Relectiones Theologicae XII* (1557), and Vázquez, in *Controversiarum Illustrum* (1572),

³⁷ Grotius, *The Free Sea* ed. Armitage pp. 5, 7, 59; *Briefwisseling van Hugo Grotius* Vol. I p. 128.

An English translation of the letter of the Zeeland VOC directors is forthcoming in Grotius, *Commentary on the Law of Prize and Booty*, ed. Van Ittersum.

had convincingly refuted various justifications of the Spanish conquest of the New World. Grotius showed that their arguments invalidated the Portuguese claims to the East Indies as well. The Portuguese had no business barring any European merchant from Asia on the basis of their own alleged title of discovery, a putative papal donation, the Aristotelian concept of natural slavery, the heretical beliefs of the Indians, or the title of “prescription or custom.” Even though the Portuguese discovered the sea route to Asia, this hardly made them owners of the “whole ocean, which antiquity calleth unmeasurable and infinite” and which was incapable of appropriation by its very nature. The Pope could not give away what had never been his—temporal dominion of the extra-European world. Nor did the Indians have anything in common with Aristotle’s natural slaves, quite the contrary. When the Portuguese arrived in the East Indies, its inhabitants had “both publicly and privately authority over their own substance and possessions which without just cause could not be taken from them.” Grotius highly approved of Vitoria’s conclusion that it was not permitted to Christians to deprive the Indians of “their equal power and sovereignty . . . because they are infidels.” As for the title of “prescription or custom,” Grotius agreed with Vázquez that it had no standing in natural law or *jus gentium*, and therefore failed to abrogate the freedom of trade and navigation. The ‘facts’ of the case could easily be established on the basis of two letters of Philip III, written in November 1606 and January 1607, respectively, which Grotius included in Latin translation in the appendix of *Mare Liberum*. These letters commanded the Viceroy at Goa to oust the Dutch from the East Indies by whatever means necessary. It would be difficult for the monarch to disown such self-incriminating evidence, let alone repudiate the learned opinions of his own jurists and theologians. He stood convicted before the dual “seats of judgement”—his own conscience on the one hand and “fame, or other men’s estimation” on the other.³⁸

³⁸ Grotius, *The Free Sea* ed. Armitage pp. xv–xvii, 7–8, 13–20, 32, 38–54, 61–62, 77–79; Francisco de Vitoria, *Political Writings* ed. A. Pagden and J. Lawrence (Cambridge: Cambridge UP, 1991) pp. 231–276; Annabel S. Brett, *Liberty, Right and Nature: Individual Rights in Later Scholastic Thought* (Cambridge: Cambridge UP, 1997) pp. 165–204; Borschberg, *Hugo Grotius’ Commentarius in Theses XI* pp. 43–44, 84–88, 92; Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: OUP, 1999) p. 81.

Both Dutch and Spanish scholars have pointed out that Vitoria is the single most-cited author in *De Jure Praedae* and *De Jure Belli ac Pacis*, the total number of ref-

The inference which Grotius drew in the last chapter of *Mare Liberum* was predictable: “it remaineth that we wholly maintain that liberty which we have by nature, whether we have peace, truce or war with the Spaniard.” His remark was a direct comment on the Truce negotiations between the Dutch Estates General and the Archdukes’ representatives in the winter of 1608/09. The Spanish were blamed for the collapse of the peace talks the previous August. Grotius noted that there were two possible kinds of peace, “either upon equal or unequal conditions.” Citing Demosthenes, he explained that free men could never accept the latter variety because it would mean outright slavery. He quoted the Ciceronian dictum that “wars are to be undertaken for that cause that we may live peaceably without injury.” These sentiments were typical of *De Jure Praedae*, of course. Grotius still conceptualized a just war as essentially a judicial proceeding, which exacted damages for injuries sustained. Hence peace was justice restored, a “quiet liberty.” Even if a truce of many years was arranged between Philip III and the Dutch Estates General, it would still need to have some of the characteristics of a proper peace. A truce should not change anyone’s condition for the worse and thus create new injuries. Grotius insisted on the principle of *uti possidetis* as being “the nature itself of truces.” If Philip III continued

erences being 123. The runners-up are Vázquez, quoted 103 times, and Diego de Covarrubias y Leyva, cited 87 times. According to Borschberg, Vitoria is cited numerous times in the manuscript *Commentarius in Theses XI*, one of Grotius’ early writings in BPL 922 in Leiden University Library. The same bundle of papers contains a sheet with Grotius’ reading notes on the *Relectiones Theologicae XII*. Borschberg considers these “the most extensive excerpts of Vitoria that have survived.” He has recently published an important article on Grotius’ use of the Spanish scholastics in *Mare Liberum*. Grotius’ selective referencing did not go unnoticed by contemporaries like Seraphim de Freitas, who published a critique of *Mare Liberum* in 1625.

Compare Antonio Truyol Serra, “Francisco de Vitoria Y Hugo Grocio,” *Ciencia Tomista* 111 (1984) pp. 17–27; Borschberg, *Hugo Grotius’ Commentarius in Theses XI* pp. 48–52, 92–93 and ‘Hugo Grotius’ Theory of Trans-Oceanic Trade Regulation: Revisiting *Mare Liberum* (1609)’ pp. 36–39; Feenstra, “L’Influence de la scolastique Espagnole sur Grotius en droit privé: quelques expériences dans des questions de fond et de forme, concernant notamment les doctrines de l’erreur et de l’enrichissement sans cause” in: Robert Feenstra, *Fata Iuris Romani: Etudes d’Histoire du Droit* (Leiden: Leiden UP, 1974) pp. 338–363; Feenstra, “Hugo de Groot’s eerste beschouwingen over *dominium* en over de oorsprong van de private eigendom: *Mare Liberum* en zijn bronnen,” *Acta Juridica* 1976 I (Essays in Honour of Ben Beinart) pp. 269–275; Feenstra, “Quelques remarques sur les sources utilisées par Grotius dans ses travaux de droit naturel” in: *The World of Hugo Grotius (1583–1645): Proceedings of the International Colloquium Organized by the Grotius Committee of the Royal Netherlands Academy of Arts and Sciences, Rotterdam, 6–9 April 1983* (Amsterdam and Maarsen, 1984) pp. 65–81.

to obstruct freedom of trade and navigation, it would be entirely legitimate for his compatriots to renew the hostilities. He explained that

as war is rightly undertaken for the defense of everyone's goods, so it is no less rightly undertaken for the use of those things which by the law of nature ought to be common. Wherefore he that shall stop the passage and hinder the carrying out of merchandise may be resisted by way of fact, as they say, even without expecting any public authority.

It was the argument of *De Jure Praedae* in a nutshell. But what were its practical implications in the context of the Truce negotiations?³⁹

Grotius ended *Mare Liberum* on a marshal note. He appealed to his compatriots, "if it must needs be so," to continue their fight "for the freedom and liberty of all mankind." Strong words indeed, except that the political circumstances had changed dramatically since Grotius wrote chapter twelve of *De Jure Praedae*. Neither Jeannin nor Oldenbarnevelt desired an indefinite extension of the Eight Months' Armistice of April 1607. Instead, they negotiated a truce in the winter of 1608/09 that bore many of the trappings of the draft peace agreement of March 1608, including some sort of recognition of the sovereignty and independence of the United Provinces, and the resumption of Dutch trade with the Iberian Peninsula. Yet it was unclear what would happen in the East Indies. In June 1608, Philip III had firmly rejected Oldenbarnevelt's proposal for a nine-year armistice beyond the Line. He might not consider himself bound by any further agreement reached between the Dutch Estates General and the Archdukes' representatives with regard to the Indies trade. The solution was obvious to Grotius and the VOC directors: if they had their way, the hostilities would certainly continue in the East Indies, though not in Europe.⁴⁰

The next section reconstructs the political context in which *Mare Liberum* was commissioned by the Zeeland VOC directors and printed by Elzevier Publishers in Leiden. When the Zeeland VOC directors wrote to Grotius in November 1608, Their High Mightinesses still lacked any kind of authorization from the Estates of Zeeland to negotiate a Twelve Years' Truce. It was a fruitless rearguard action on

³⁹ Grotius, *The Free Sea* ed. Armitage pp. 57–60; Grotius, *Commentary on the Law of Prize and Booty* pp. 27–30; Fruin, *Verhooren en andere bescheiden betreffende het rechtsgeding van Hugo de Groot* p. 33.

⁴⁰ Grotius, *The Free Sea* ed. Armitage p. 58; Dutch National Archives, VOC 100, unfoliated (minutes of the meeting of the Gentlemen XVII of 5 Sept. 1609, agenda item #39).

the part of Prince Maurice and the Zeeland regents. When Jeannin addressed the Dutch Estates General on 31 October 1608, he made it abundantly clear that Henry IV of France would not subsidize the Dutch army if the United Provinces broke off the negotiations and resumed the hostilities against Spain. All the war party agitation of the summer of 1608 had been in vain: Prince Maurice knew full well that he could not fight a single military campaign without the French subsidies. The Estates of Zeeland, although tightly controlled by Prince Maurice, would be forced to accept the policy recommendations of Jeannin and Oldenbarnevelt before long. Yet the Estates of Zeeland managed to extract some important concessions from the Dutch Estates General as the price of its compliance. The VOC continued to receive warships, guns, and ammunition from the Dutch Admiralty Board and on the same liberal terms as before. Meanwhile, Oldenbarnevelt negotiated a secret treaty with the Archdukes' representatives that extended the armistice to the East Indies. *Mare Liberum*, for that matter, made zealous converts of the Gentlemen XVII. It was duly noted in the minutes of their meeting of 5 September 1609 that the VOC's *raison d'être* had always been to vindicate the freedom of trade and navigation in the East Indies.

5.3 *Hugo Grotius and the Truce Negotiations (August 1608–April 1609)*

The Estates of Zeeland had never been happy with the Eight-Month Armistice and the ensuing talks with the Habsburg enemy. The armistice of April 1607 was an unpleasant surprise for the Zeelanders, who gave their consent after the fact, but only grudgingly, in order to prevent “disunity and schism” in the state. When peace negotiations got underway in February 1608, each of Zeeland's six voting towns sent at least two delegates to The Hague in order to reinforce the provincial delegation in the Dutch Estates General. This explains, for instance, why Grotius should have been in frequent contact with the Zeeland VOC directors. As a member of the provincial delegation, Adriaen ten Haeff traveled back and forth between Middelburg and The Hague in the winter and spring of 1608. The peace talks received little mention in the minutes of the Estates of Zeeland, however, probably because they produced no treaty that required the Estates' consent. The reverse is true, however, of the domestic political debates in autumn 1608, when the Dutch Estates General discussed the proposals of Jeannin and Oldenbarnevelt for

a truce of many years. The Estates of Zeeland was so concerned at the developments in The Hague that it met for thirty days between early September and mid-December 1608, an unprecedented number of sessions for such a short time period. The crisis came to a head at the end of October. For nine consecutive days, the Estates of Zeeland weighed the pros and cons of a truce of many years, only to succumb to the pressure of Jacques de Malderée, representative of Prince Maurice, the province's First Noble. At Malderée's suggestion, the Estates of Zeeland rejected the proposals of Jeannin and Oldenbarnevelt as "a disservice to the country's welfare and security," and demanded instead "an absolute declaration from the Archdukes and King of Spain that they consider these Provinces a free state, whereupon they have no claim whatsoever." It was a far from subtle appeal to Their High Mightinesses to renew the war against Philip III. The province of Zeeland had become the bastion of the war party.⁴¹

The perils of a Truce treaty were spelled out in various Zeeland pamphlets that appeared in autumn 1608. Middelburg newsletters made much of the resolutions of the Dutch Estates General of 25 August and 13 September 1608, which were reproduced in their entirety. (These resolutions had terminated the peace negotiations and asked the Archdukes' representatives to leave the United Provinces, respectively.) Other pamphlets echoed the concerns that the Estates of Zeeland had expressed on various occasions regarding the faithlessness of Philip III and the weakness of the Dutch state, particularly its lack of internal cohesion. Neither the Estates of Zeeland nor the Middelburg pamphleteers believed that the proposals of Jeannin and Oldenbarnevelt could guarantee the territorial integrity of the United Provinces or the religious status quo (i.e. freedom of conscience for all, but freedom of worship for the Dutch Reformed Church only). War party enthusiasts invariably portrayed the Catholic

⁴¹ *Gedrukte Notulen van de Staten van Zeeland, 1607* pp. 59–61 (minutes of 7 April 1607); *Gedrukte Notulen van de Staten van Zeeland, 1608* pp. 159–160 (minutes of 30 October 1608).

The Estates of Zeeland was in full session from 3 until 8 September, from 6 until 8 October, from 23 until 31 October, and again from 28 November until 9 December 1608. There were just three meetings of the Estates of Zeeland in the spring and summer of 1608, notably from 18 until 21 March, from 20 until 23 May and 31 May until 6 June. See *Gedrukte Notulen van de Staten van Zeeland, 1608* pp. 3, 7, 22, 29, 37, 47, 49, 70, 73, 78, 109, 113, 115, 135, 151, 153, 162, 171, 173, 182–183.

inhabitants of the United Provinces as a potential fifth column. The Zeelanders' zeal for true religion did not prevent them from being attentive servants of Mammon as well. The Estates of Zeeland believed, with good reason, that a truce of many years would damage the province's economic interests. If a treaty should put an end to the Dutch naval blockades of Antwerp and the Flemish coast, the province might well lose many inhabitants and a large part of its trade, which, in turn, would result in fewer tax revenues and a shrinking defense budget. The King of Spain, untrustworthy as ever, could take advantage of the situation and put his own house in order. He would not just enjoy his colonial revenues again, but also collect customs duties from Dutch merchants flocking to Iberian harbors. These merchants would be easy prey for the Habsburg monarch, who could confiscate their ships and create a new *armada*, for example. The Estates of Zeeland insisted in its communications with Their High Mightinesses that an unconditional recognition of Dutch sovereignty and independence was the only adequate remedy for all these perceived evils. The Zeeland regents realized full well, of course, that Philip III was unlikely to meet such a demand. The Middelburg pamphleteers were even more outspoken in their criticism. According to the author of *True Depiction*, nothing could be expected from "this filthy Spanish bastard, as long as he seeks to please the Romish Babel-whore, who still has not had enough of the blood of the Saints and Preachers of Jesus Christ." Hostilities should be resumed right away.⁴²

Although insufficient security guarantees was its primary reason for rejecting Oldenbarnevelt's proposals for a truce of many years, the Estates of Zeeland also mentioned the plight of the VOC in its remonstrance of 319 folios, which was submitted to the Dutch Estates General in November 1608. The Estates of Zeeland voiced both old and new concerns about the Indies trade and borrowed quite a few

⁴² Den Tex, *Oldenbarnevelt* Vol. II pp. 623, 628; *Resolutiën der Staten-Generaal, 1607–1609* (RGP 131) pp. 443, 449–450; *Gedrukte Notulen van de Staten van Zeeland, 1608* pp. 154–155 (meeting of 24 October 1608); Royal Library in The Hague, 'Remonstrantie vande Heeren van Zeelandt aende Heeren Staten Generael', scribal copy, Kn. 1531 (1608) f. 312v–313r; *Discours op den Swermenden Treves* Kn. 1577 (Middelburg, 1609) p. A4v; *Ware Verthooning ende Afbeeldinghe* Kn. 1540 (Middelburg, 1608) f. B3r–B4v; *Generale Vermaninghe aenden Switseren* Kn. 1485 (Middelburg, 1608) f. B4v.

arguments from *Discourse in the Form of a Petition, Statement of Important Reasons* and *Impartial Discussion of the Indies Trade*. This was hardly surprising: VOC director Jacob Boreel was a member of the Estates of Zeeland, for example. In its remonstrance, the Estates of Zeeland detailed various threats to the Company's future. There was a distinct possibility that the VOC directors would break off hostilities in the East Indies once a truce of many years came into force in Europe. Just like other Dutch merchants, the Company directors might well want to profit from a widely predicted commercial bonanza in the Iberian Peninsula, something they could not do in safety if they simultaneously opposed Philip III on the other side of the globe. The VOC pamphlets had raised this issue as well. Nor did the similarities end here. The Zeeland authorities accepted the directors' argument that a Dutch withdrawal from the East Indies would play directly into the hands of the King of Spain, who desperately needed a breathing space in order to increase his colonial revenues and solve his financial difficulties. Conversely, the demise of the VOC would deprive the Dutch Admiralty Board of some of its most lucrative sources of income. The Company had captured no less than "thirty galleons and carracks," for example, and paid a 20% tax on all prize goods. The Zeeland authorities bolstered their case by citing two intercepted letters of Philip III, which Grotius would include in their entirety in the appendix of *Mare Liberum*. According to the Estates of Zeeland, Philip's letters were *prima facie* evidence of a nefarious Portuguese design to intimidate Asian rulers, who could expect to be "destroyed and extirpated with great violence" if they continued their trade relations and military alliances with the VOC. It just served to show that, once lost, it would be impossible to regain the Indies trade. The same point had been made in the VOC pamphlets, and, of course, in Grotius' memorandum for the Gentlemen XVII. The remonstrance of the Estates of Zeeland also emphasized the Company's importance for Dutch military and naval strategy, another argument familiar from Grotius' memorandum and the VOC pamphlets. One hundred and ten "great big ships" had been sent to the East Indies since 1595, while thirty men-of-war were currently stationed in Asian waters, each worth "one hundred thousand guilders without cargo." The Company's warships, six hundred cannons included, and its credit facilities would be indispensable to Their High Mightinesses if the French and English monarchs should fail to fulfill their treaty obligations towards the United Provinces. The

remonstrance was not just a repetition of well-worn arguments, but also expressed some fresh anxieties about the Indies trade, particularly in its conclusion. The Zeeland authorities were not at all happy with Jeannin's suggestion to give the King of Spain three months to ratify a truce treaty and decide whether or not to extend it to the East Indies. In their mind, this was all Philip III needed to seize the advantage. The VOC directors would have to sit and wait for three months, uncertain of the King's decision, while he could arrange for his plate fleet to arrive home safely. Once the season for voyages to Asia had passed without any departures from the United Provinces, the monarch would doubtlessly opt for war beyond the Line and make life very difficult for the VOC. Such apprehensions about the VOC's future were not limited to the Estates of Zeeland.⁴³

While the Zeeland authorities stood alone in their rejection of a

⁴³ *Remonstrantie vande Heeren van Zeelandt aende Heeren Staten Generael* (Kn. 1531) f. 314r–315r, f. 317v.

Jacob Boreel may well have provided Grotius with copies of the intercepted correspondence of Philip III. The Middelburg VOC directors had received the originals from Cornelis Matelief Jr. in September 1608. They enclosed the two letters when they wrote to Boreel in The Hague on 17 Nov. 1608. Boreel served as a member of the Zeeland delegation in the Dutch Estates General that autumn and winter. Compare Dutch National Archives, VOC 7290 (*Kamer Zeeland, COPIEBOECK VAN BRIEVEN-B, Anno 1608*, unfoliated) and Kleffens, 'Over zes brieven uit het bezit van Hugo de Groot', pp. 449–490.

The Estates of Zeeland decided against Jeannin's proposals during its nine-day meeting at the end of Oct. 1608. Eight extraordinary deputies, including Jacques de Malderée and Jacob Boreel, were sent to The Hague to reinforce its delegation in the Dutch Estates General and explain its decision to the other provinces. The Zeeland delegation tried to exert political pressure on the Estates of Holland as well as Their High Mightinesses. Albert Joachimi and Jacob Magnus Simonszoon, the regular Zeeland representatives in the Dutch Estates General, visited a meeting of the Estates of Holland on 3 Nov. 1608, for example. They entreated the Estates of Holland to postpone its own vote on Jeannin's proposals until the arrival of the extraordinary deputies from Middelburg, all for the sake of the "ancient ties" between Holland and Zeeland. The Estates of Holland granted their request and graciously received the extraordinary deputies on 12 November. The latter used "very wide-ranging reasons and arguments" in order to convince the Estates of Holland that a "secure war" was better than an "insecure truce." The extraordinary deputies repeated their performance in the Dutch Estates General on 14 November, "deducing at length the reasons why they believe that the truce and its provisions are contrary to the welfare and security of these provinces." The Dutch Estates General may well have asked the extraordinary deputies to submit a paper copy of their plea, although it probably did not expect to receive a remonstrance of 319 folios! Compare *Gedrukte Notulen van de Staten van Zeeland, 1608*, pp. 153–162, *Register van Holland en Westvriesland, 1607–1609*, pp. 732, 746; *Resolutiën der Staten-Generaal, 1607–1609* (RGP 131) pp. 457–459.

truce of many years, the Estates of Holland did share their concern about its consequences for the Company. When the VOC directors submitted a petition on 5 November 1608, the Estates of Holland took a unanimous decision “to maintain the Company and put its words into deeds at once.” A subcommittee met with the VOC directors that afternoon in order to find out “which policy they wished to adopt in the Indies in case of war, which in case of Truce, and what they needed from the state.” The Estates of Holland received the subcommittee’s report on 6 November and approved various measures that same day aimed at softening the Truce’s impact on the VOC. Although Jeannin and Oldenbarnevelt might still be able to obtain concessions from the Archdukes’ representatives, the Estates of Holland took no chances and voted to make immediate arrangements for “the outfitting of twelve good ships of the biggest size.” These warships would have to be ready by next autumn—“as the directors declared that they did not need any assistance beforehand”—in order to sail to Asia alongside the Company’s merchantmen, just in case the Truce negotiations did not result in any guarantees for the Indies trade. The combined fleet would be under orders to “wage war on behalf of the state and thus enforce the Company’s right to trade.” The Estates of Holland realized that Their High Mightinesses might be reluctant to adopt its policy proposals—the landlocked provinces were loath to alienate the Archdukes’ representatives at this critical juncture—and that it might be better to adjust the proposed Truce treaty in ways favorable to the Company. Subterfuge was the preferred means of the Estates of Holland to achieve both objectives. It was decided, first of all, to put more ships on the drawing board than would actually be built by the Dutch Admiralty Board in order to “make the rumor bigger.” Meanwhile, it should be noised abroad that “necessity” and “political circumstances” would determine the final size of the fleet. The purpose was to “make the enemy more willing to include the Company in the Truce.” The Estates of Holland swore an oath to keep “this intention a secret,” however, as well it should!⁴⁴

When the Middelburg VOC directors wrote to Grotius on 4 November 1608, they were unaware of the substantial naval and

⁴⁴ *Register van Holland en Westvriesland, 1607–1609* pp. 736–738 (minutes of the Estates of Holland, 5–6 Nov. 1608); Den Tex, *Oldenbarnevelt* Vol. II p. 657.

political support that the Company had already been offered by the Estates of Holland. They commissioned *Mare Liberum* in an entirely different political context: the meeting of the Estates of Zeeland at the end of October 1608, which resulted in its rejection of a truce of many years. They must have been familiar with the remonstrance that the Zeeland delegation submitted to the Dutch Estates General, and undoubtedly sympathized with its suggestion that the Truce proposals contained insufficient guarantees for the Indies trade. Yet the VOC was hardly in the same position as the Estates of Zeeland. In their capacity as private merchants, the Middelburg directors could not afford to alienate the Dutch Estates General or decide such fundamental issues as war and peace. Instead, they sought to change the truce proposals in the Company's favor. This was where Grotius came in. As the directors explained in their letter of 4 November,

We have always considered it appropriate for the United Company to have the right of navigation—which is competent to the Dutch nation over the whole wide world—thoroughly examined and adduced with rational as well as legal arguments.

Grotius would have to address two different sets of readers. His initial task was to “assure the inhabitants of these provinces of the worthiness of the cause, in case some still doubt it.” Yet the directors were clearly more interested in shoring up the Company's position in international politics. Grotius should direct his plea for freedom of trade and navigation at “neighboring princes and monarchs” (i.e. Henry IV of France and James I of England), and persuade them “to help defend the nation's rights.” A strong sense of urgency pervaded the directors' letter. The publication of *Mare Liberum* was not just opportune, but absolutely necessary “because of the Peace and Truce negotiations.” The King of Spain desired a treaty that would undo both the Company's trade and its “conquests and alliances.” The directors were determined to oppose him, however, and expected Grotius to “persuade both our government and neighboring princes to staunchly defend our, as well as the nation's, rights.” They derived great encouragement from a rousing speech that “Johan Boreel, JD,” eldest son of Jacob Boreel, had delivered at their recent meeting in Middelburg. Since Grotius had apparently “prepared all the material on this topic,” he was entreated to “assist the Company with your labors.” Interestingly enough, they assumed that their Amsterdam colleagues had already sent him a similar request. Which political

advantages did they hope to gain from the publication of *Mare Liberum*? They counted on Grotius to elicit the favorable opinion of “those who preside over the talks” (i.e. Jeannin!) and, more importantly, to do a quick and dirty job—so that the Company might “enjoy the benefit during the negotiations.” The directors’ expectations were high indeed. It was not for lack of trying that Grotius had to disappoint them in the end.⁴⁵

The printing history of *Mare Liberum* can be reconstructed from Grotius’ correspondence with Johan Boreel, George Lingelsheim, and Daniel Heinsius. The letters of Johan Boreel reveal that the Zeeland VOC directors needed a great deal of prompting before they contacted Grotius and requested the publication of *Mare Liberum*. When he wrote to Grotius on 6 November 1608, he already knew that the directors had commissioned the pamphlet—“the Company wrote to you on the subject familiar to you”—and explicitly mentioned his own efforts to bring this about—“I exhorted these tardy men to attend to their own affairs, and wrote two letters.” This indicates a large measure of prior consultation between Boreel and Grotius. Before Boreel addressed the meeting of the Middelburg VOC directors, he must have corresponded with his friend about chapter twelve of *De Jure Praedae* and its relevance to the Truce negotiations. (Unfortunately, not all of their letters are extant today.) It is highly suggestive that it was Boreel who informed the directors that Grotius had already “prepared all the material on this topic.” Did he perhaps read *De Jure Praedae* and prevail on Grotius not to leave it all in manuscript? Or did the author of *Mare Liberum* act on his own initiative? Was Grotius eager to make his mark on Dutch politics, for example? Judging by his correspondence with Boreel, it is unlikely that Grotius wanted to commit himself to either the war or the peace party at this critical juncture. His steadfast support for the VOC seems to have made up the sum-total of his political ambitions during the Truce negotiations.⁴⁶

⁴⁵ *Briefwisseling van Hugo Grotius* Vol. I pp. 128–129.

⁴⁶ *Briefwisseling van Hugo Grotius* Vol. XVII pp. 41–42 (Johan Boreel to Grotius, 6 Nov. 1608).

It is important to note that Boreel wrote in reply to Grotius’ letter of 29 October 1608, which has not survived.

When Boreel wrote to Grotius again on 13 December 1608, he longed to set eyes on “your *Indica*,” but agonized over the increasing political turmoil in Zeeland. The provincial Estates had just deliberated for twelve days and finally accepted the proposals of Jeannin and Oldenbarnevelt, under heavy pressure from Their High Mightinesses. Yet the Estates’ dissolution on 9 December had not ended the acrimonious disputes within the political elite of Middelburg. As Boreel noted, “hardly any action, hardly any conversation, is safe from censure.” Hence he was not surprised to learn from his friend’s letters that “you cannot remain neutral between the patriots and the warmongers in such a way that you recommend your zeal to both.” Grotius was clearly engaged in a difficult balancing act in the winter of 1608/09. Although he did not translate his support for the VOC into an endorsement of the war party—he fiercely criticized the Estates of Zeeland in a letter to Jeannin, for example—he remained a stalwart opponent of any kind of Iberian monopoly of trade and navigation in the extra-European world. So much is clear from the letter that he addressed to George Lingelsheim on 4 December 1608. *Mare Liberum* was never intended to be just a little treatise “on the right of free navigation in the Indies,” but a flaming indictment of “the injustice of the Spanish.” Grotius believed, perhaps rather naively, that he could publish *Mare Liberum* and still keep his distance from the political infighting. After all, both Oldenbarnevelt and Prince Maurice had championed freedom of trade and navigation during the peace talks in the spring of 1608. *Mare Liberum* was merely a discussion of the Indies trade: it had little, if anything, to say about the advisability of a Truce treaty as such. From the perspective of natural law, the VOC enjoyed the moral high ground, not the King of Spain. Yet Grotius soon discovered that he could not fool Oldenbarnevelt, whose deft handling of the Truce negotiations in the winter of 1608/09 caused as many delays in the publication of *Mare Liberum* as the insouciance of Leiden printers.⁴⁷

⁴⁷ *Briefwisseling van Hugo Grotius* Vol. I pp. 128, 149 (Grotius to G.M. Lingelsheim, 4 Dec. 1608, and Grotius to Pierre Jeannin, 18 Sept. 1609) and Vol. XVII p. 42 (Johan Boreel to Grotius, 13 Dec. 1608); Kluiver, *De soevereine en independente staat Zeeland* pp. 15–34, 124–128; Enthoven, *Zeeland en de opkomst van de Republiek* pp. 142–149, 219–239.

Boreel’s epistle of 13 Dec. 1608 is a reply to “several letters” from the Delft jurist, which are no longer extant. The editor of Grotius’ correspondence, Dr. H. Nellen, concludes that both Grotius and Boreel were supporters of Oldenbarnevelt’s peace

Grotius' dealings with Elzevier Publishers, or rather, his non-dealings, are recorded in an exchange of letters with Daniel Heinsius, professor of Greek and Latin at the University of Leiden. Heinsius negotiated with the printer on Grotius' behalf and effectively saw *Mare Liberum* through the press. Grotius was so preoccupied with his duties as Solicitor General of Holland that he was unable to make arrangements with Elzevier Publishers himself. It did not make him less mindful of the task at hand. He seriously considered publishing both a French and Latin edition of *Mare Liberum*, just to make sure that he would reach his intended audience, "the Princes & Free States of the Christian World." In accordance with the wishes of the VOC directors, he worked tirelessly for a "quick publication" for he realized that "both the use and service of this work will perish without it," so he informed Heinsius on 23 November 1608. The Company needed his support *during* the Truce negotiations, not afterwards. In the same letter, Grotius inquired about the possibility of finding a French translator in Leiden. He continued to pester Heinsius for a translator in his letters of 5 and 11 December, but then ceased his entreaties, probably due to the delays and difficulties that were already hampering the publication of the Latin text. For the month of November had gone by without a single publisher expressing interest in *Mare Liberum*. When Elzevier finally agreed to do the job, the printer could not guarantee a publication before February and would not even fix a date for the first print run. Although Grotius did not like any of this, there was little he could do about it. "[S]udden business" prevented a trip to Leiden in early December, while the illness of his young wife demanded his presence in Zeeland later that month. Yet Grotius continued to send Heinsius instructions for speeding up the editorial process. In his letter of 18 December, he complained about the "neglect and idleness of the printer," and stressed the importance of a timely publication "to the state and me per-

policy. The letter's second paragraph certainly supports his conclusion with regard to Johan Boreel, who was apprehensive at the slow progress of the Truce negotiations and denounced its opponents as "destroyers of cities." Yet the letter's second paragraph does not provide any evidence for Grotius' political sympathies, apart from Boreel's observation that "you cannot remain neutral between the patriots and the warmongers in such a way that you recommend your zeal to both." These words can also be interpreted as a wish on Grotius' part to remain neutral on the issue of the Truce treaty and not be identified with either the peace or the war party.

sonally.” Grotius worried about proofreaders when he wrote to Heinsius the day after Christmas. He urged his friend once again to hasten the publication of *Mare Liberum* in his letter of 5 January 1609. There seemed to be some progress six days later. Grotius reported to Heinsius that he liked Elzevier’s typeface and the “format of the little book,” although he objected to the “ugly paper” and still deplored “the delay of these gain-seekers.” Yet he was just as guilty of procrastination himself. Only on 18 February did he send Heinsius the preface and appendix of *Mare Liberum*, for example. He also enjoined Heinsius not to order a print run until he had obtained a license from the Estates of Holland. That, however, proved to be impossible. Indeed, Grotius’ desire to play by the rules could easily have prevented *Mare Liberum* from appearing at all.⁴⁸

When Grotius wrote to Heinsius on 7 March 1609, four months had passed since the Zeeland VOC directors commissioned *Mare Liberum*. Meanwhile, the Truce negotiations had caught up with him, instead of the other way around. Both the Estates of Holland and the Dutch Estates General had relocated to Bergen op Zoom, a Dutch town close to Antwerp, in order to be at hand for the signing of the Twelve Years’ Truce. Although the negotiations had entered the final stage, there were still a few differences between the two sides, notably about the Indies trade. At the instigation of the Estates of Zeeland and the Amsterdam town government, Oldenbarnevelt tried to obtain stronger guarantees for the VOC’s treaties and alliances with Asian rulers. Yet he refused to turn it into a make-or-break issue. The Twelve Years’ Truce was far too important for that. Oldenbarnevelt did not want to take any chances at this critical juncture, and even asked Grotius to delay the publication of *Mare Liberum*. He made it clear to Grotius that “all such things must be avoided which may offend the minds of the parties.” As a servant of the Estates of Holland, Grotius could not deny Oldenbarnevelt’s request in good conscience. He put a brave face on it in his letter to Heinsius of 7 March 1609, and explained that he had agreed to postpone the pamphlet’s publication “not, by Hercules, for my own benefit, but for the sake of the republic.” Still, Oldenbarnevelt was not unreasonable in his demands. *Mare Liberum* could be sent to the Frankfurter

⁴⁸ *Briefwisseling van Hugo Grotius* Vol. I pp. 129–134, 139 (Grotius to Heinsius, 23 & 27 Nov. 1608, 5, 11 & 26 Dec. 1608, 5 & 11 Jan. 1609, 18 Feb. 1609).

Messe “lest the printer complains loudly of his loss.” The pamphlet’s publication in the Low Countries should be postponed for a few weeks or a month at most, with the exception of the presentation copies, which Grotius needed for immediate distribution among “men endowed with judgement and well affected to the fatherland.” Grotius assured Heinsius that he had fully intended to visit Leiden “in order that the printer might grasp my aim as soon as possible,” only to be upstaged, yet again, by “the strict necessity of my most busy occupation.” The Solicitor General was obliged to travel to Holland’s most northern tip in order to watch over “the advantages of the provincial treasury.” When he returned to The Hague at the end of April, *Mare Liberum* had already appeared in print, much to his dismay. Elzevier had taken the precaution of issuing *Mare Liberum* as an anonymous pamphlet—the author’s name did not appear on the title page. The clandestine publication contravened both the letter and the spirit of Grotius’ instructions. Heinsius was not at all happy at this unexpected turn of events, and sent Grotius an angry letter. In reply, Grotius explained that “this Sea” had been so free as to break forth “uninvited and unknown to me its master,” and that it had been “manumitted” by Elzevier alone, who “defrauded me of my right as patron,” three nice puns on the pamphlet’s title and argument. Yet Grotius did not seem to be unduly troubled by the publication, and entreated Heinsius to adopt a more relaxed attitude:

You, then, imagine just as if this treatise appears now for the first time, and salutes you before all others, in such a way that it is appropriate. Indeed, you have bravely suffered so many torments and aversions on its account that I do not believe that they themselves are more sea-sick, who sail in the freest sea, which we call Ocean.

It is not known what Oldenbarnevelt’s reaction was to the whole affair. Yet he may well have let it pass. *Mare Liberum* appeared one or two weeks after the signing of the Truce treaty, and in far too “concealed” a fashion to cause any trouble. None of the parties involved in the Truce negotiations lodged an official protest with the Dutch Estates General, for example. Had they done so, then *Mare Liberum* could always have been disavowed by Their High Mightinesses as, quite literally, an unlicensed publication.⁴⁹

⁴⁹ Den Tex, *Oldenbarnevelt* II pp. 665–669; *Briefwisseling van Hugo Grotius* Vol. I pp. 141, 144–145 (Grotius to Heinsius, 7 March 1609 and April 1609).

Did *Mare Liberum's* belated publication mean that all of Grotius' efforts had been in vain? Certainly not! It never prevented the VOC directors from making themselves heard in The Hague in the winter of 1609, and may well have strengthened their hand in deliberations with the Dutch Estates General that summer. Two months before the signing of the Truce treaty, Oldenbarnevelt held a series of policy meetings with both the VOC directors and representatives of the Dutch Admiralty Board in order to discuss the Company's future. The Solicitor General of Holland was also present at these meetings, which lasted from 30 January until 10 February 1609. Grotius did not earn this invitation by virtue of his office. Rather, he was a protégée of the Advocate of Holland who had become the country's foremost expert on the political and legal aspects of the East Indies trade. Undoubtedly at his and Oldenbarnevelt's behest, the Dutch Estates General bent over backwards to please the Company. In case a Truce treaty should contain insufficient guarantees for its commerce and trade, Their High Mightinesses promised to assist the

Elzevier printed two unlicensed editions of *Mare Liberum* in 1609. The pamphlet was available for purchase at the Frankfurter Messe that spring. The Dutch translation that appeared in 1614 was the first edition properly licensed by the Dutch Estates General. Compare *Catalogus Universalis Pro Nundinis Francofurtensibus Vernalibus, De Anno MDCIX* (Frankfurt, 1609) C3v and *Bibliographie des écrits imprimés de Hugo Grotius* ed. Jacob ter Meulen and P.J.J. Diermanse (The Hague: Martinus Nijhoff, 1950) pp. 211–213, 217.

Molhuysen, the modern editor of Grotius' correspondence, believes that *ius patronatus* refers to a government license for *Mare Liberum's* publication. The context suggests otherwise, however. Grotius describes himself as the *dominus* (lord and owner) of *Mare Liberum*. In Roman law, only a *dominus* can manumit a slave and thus acquire the *jus patronatus* (i.e. a patron's rights over his freedman).

The approximate date of the first edition can be deduced from Grotius' correspondence. Grotius did not refer to *Mare Liberum* when he sent a long letter to Heinsius on 10 April 1609. He first mentioned the pamphlet's publication, as having occurred "a few days ago," in a little note to Heinsius, probably dashed off at the end of April 1609. Grotius disabused Heinsius of the notion that he was responsible for the surreptitious printing of *Mare Liberum* in his next letter, which, although again undated, must have been written at the end of April as well. Grotius congratulated Heinsius on receiving rents from his landed properties in Flanders, for example, which was a direct consequence of the signing of the Twelve Years' Truce. In addition, Grotius noted that he had already made two business trips that month—one to the most northern part of Holland and one to Amsterdam, and that he was preparing for a third trip to Dordrecht. He was so busy that he could hardly breathe, let alone write to Heinsius! All this suggests that *Mare Liberum* appeared sometime between 10 April 1609 and the end of the month. (I would like to thank Dr. H. Nellen for correcting my previous estimate of the pamphlet's publication date.)

VOC with twelve warships in order to “maintain the East Indian navigation and trade and thus preserve the freedom, reputation, interest and honor of the United Provinces.” The peace party cooperated wholeheartedly with this arrangement in the expectation that it would silence the war party. Securing the Company’s position in Southeast Asia had always been a high priority for both the Estates of Zeeland and the Amsterdam town government, both of which continued to fight rearguard actions against the Truce negotiations. Since Oldenbarnevelt took out its sting, the peace party believed that the issue of the Indies trade could not longer derail the prospective treaty. The French envoy Pierre Jeannin was less sanguine.⁵⁰

The instigator of the Truce negotiations worried that the VOC would profit very little from an armistice in the East Indies, even if Philip III should allow it to trade there, either “freely” or “by mutual agreement.” Jeannin expressed his concerns in a letter to Henry IV of France of 24 February 1609. It was “against our advice” that the VOC directors had insisted on trade “by mutual agreement,” while “men well-versed in this business” (Grotius?) had argued against it, saying “they will gain so little that they will be weary of the trade before long.” Personally, Jeannin was convinced that the Spanish would use “all kinds of artifices and ruses to inflict losses on them.” It should be easy for the Spanish to capitalize on the deteriorating relations between the VOC and its native allies, for example. Once its armed forces were disbanded, Asian princes and peoples were likely to lose their faith in the Company. The consequences would be little short of disastrous. The VOC might well find itself without a single ally and without adequate support from the Dutch Estates General, “trade having been accorded by mutual agreement.”⁵¹

⁵⁰ Amsterdam Maritime Museum, Correspondence of the Amsterdam College of the Admiralty Board, inventory number A 2738 (4), catalogue number B1712 (J.A. Zoggaert to the Zeeland members of the Dutch Estates General, 17 Jan. 1609); *Resolutiën der Staten-Generaal, 1607–1609* (RGP 131) pp. 893, 895; *Gedrukte Notulen van de Staten van Zeeland, 1609* p. 11.

⁵¹ *Les Negotiations de monsieur le President Jeannin* Vol. III pp. 354, 140, 372 (Jeannin to Henry IV, 24 Feb. 1609 and 30 Nov. 1608, and Villeroy to Jeannin, 28 Feb. 1609); Zeeland Provincial Archives, *Rekenkamer A, Xe Copulaet: Acten ende actitaten met diverse discoursen angaende den Staet van de Nederlanden midtsgaders van d’Oorloge ende Treves der Zelve* fol. 304r–v.

Grotius may well have qualified as one of the “men well-versed in this business,” who advised Jeannin on the Indies trade. He frequently mentioned the French envoy in his correspondence. Nor was he a big fan of an armistice in the East

Despite these doubts, Jeannin presented the Archdukes' representatives with the demands of the VOC directors, and, after much wrangling, obtained some remarkable concessions. The Truce treaty contained two articles on trade relations between the United Provinces and the dominions of Philip III, which applied equally to the East Indies and Europe, or at least could be construed as such. To be sure, the I-word was never mentioned in the Truce treaty. The Archdukes' representatives did not wish to humiliate Philip III or invite requests for similar trading privileges from "monarchs and princes which whom he is in alliance and friendship." Article 4 of the Truce treaty stipulated that the Dutch would have unlimited access to the European dominions of Philip III for the duration of the Truce. Although they would need the monarch's permission to visit the Portuguese and Spanish territories beyond the Line, they could trade freely with sovereign and independent princes anywhere in the world, subject to the latter's approval, of course, without any interference from Philip III or his subjects. Article 5 stipulated that, outside Europe, the Truce would go into effect on 9 April 1610, or earlier, if news of the treaty should arrive there sooner. In addition, the Archdukes' representatives signed a secret amendment of article 4 of the Truce treaty, which they promised to submit to the King for ratification as well. The secret amendment prohibited any kind of obstruction of Dutch commerce, "whether on land or at sea" and explicitly favored the VOC's commercial interests. The inhabitants of the United Provinces should be free to trade with "all princes, potentates and peoples" who admitted them to their ports and marts, "in whichever place it might be," whether on this side of the Line or beyond it. The subjects of Philip III must act in good faith and refrain from harassing Dutch merchants or their indigenous trading partners, "so that the said commerce be free and assured to them." These appeared to be substantial concessions on the part of the Archdukes' representatives. What were the practical implications for the VOC?⁵²

Indies, judging by the last chapter of *Mare Liberum*. Compare *Briefwisseling van Hugo Grotius* Vol. I pp. 97, 98, 100, 103, 108, 110, 112, 117, 126, 129, 130, 132, 135, 137, 142, 149 and Grotius, *The Free Sea* ed. Armitage pp. 57–60.

⁵² *Les Négotiations de monsieur le President Jeannin* Vol. IV pp. 6–9, 11 (Jeannin's address to the Dutch Estates General, 18 March 1609), 66 (articles 4 and 5 of the Truce treaty), 76 (secret addendum, signed by Spinola, Richardot, Mancidor, Verreyken and Neyen, along with representatives of the Dutch Estates General).

In diplomatic terms, the concessions of the Archdukes' representatives amounted to a Pyrrhic victory for the VOC. Since no copy has been found in Spanish archives, it is doubtful, for example, that Philip III ever ratified the secret amendment of article 4 of the Truce treaty. Nor was the Dutch Estates General altogether pleased with his ratification when it finally arrived in The Hague on 28 July 1609. Their High Mightinesses decided to accept it as it stood, but noted in their resolution that it could have been "worded and styled in a better way." It is unclear whether Jeannin expected Philip III to observe the secret amendment. He was pleased to discover that his misgivings about the Company's future had been unfounded. When three VOC directors, including Reynier Pauw, visited him at Bergen op Zoom in late March 1609, they denied that they had any intention of reducing the offensive capacity of their fleets or "going over there enfeebled, even if the said commerce should be accorded them by mutual agreement." As long as the Dutch Estates General stood by the Company, they could live with a certain degree of ambiguity in the Truce treaty and its appendages.⁵³

The VOC directors did not let the grass grow under their feet. When the Zeeland directors wrote to their colleagues in Delft on 7 May 1609, they instructed the latter to obtain permission from the Dutch Estates General to strengthen the hulls of six warships and otherwise prepare them for a voyage to the East Indies in the autumn. One month later, the Estates of Holland received a request from the Company to intercede on its behalf. It was imperative to persuade Their High Mightinesses to quickly send a notification of the Truce treaty to the East Indies, lend the Company a couple of vessels for its next fleet, and assist the establishment of a fortified rendezvous for its ships in Asia. Yet the Estates of Holland did not wish to discuss these issues before Philip III had ratified the Truce treaty. The directors had to exercise patience until the middle of August, when the Dutch Estates General addressed their concerns with a flurry of legislation.⁵⁴

⁵³ Allen, *Philip III and the Pax Hispanica* pp. 232–233, 307; *Resolütien der Staten-Generaal, 1607–1609* (RGP 131) pp. 691–92; *Register van Holland en Westvriesland, 1607–1609* pp. 847, 853–854, 861, 865–867; *Les Negotiations de monsieur le President Jeannin* Vol. IV p. 20.

⁵⁴ Dutch National Archives, VOC 7242 (minutes of the Zeeland Chamber of the VOC, 7 May 1609); *Register van Holland en Westvriesland, 1607–1609* p. 940.

Once Their High Mightinesses had received the King's ratification, they immediately adopted the Company's proposal to notify the warring parties in the East Indies as soon as possible. On 22 August 1609, they resolved that two yachts ought to be dispatched to Asia, a Portuguese one, bound for Goa, and a Dutch one, bound for Bantam, which should carry two or three representatives of each side. They agreed to pay for a yacht of fifty tons and a complement of sixty men. It was the VOC's responsibility to make the yacht ready for departure in a month's time. The Archdukes were asked to provide the Company with letters of safe conduct. If everything went according to plan, the Dutch yacht would set sail for Lisbon in the middle of September and meet up with its Portuguese counterpart there, at which point certified copies of the Truce treaty could be exchanged, along with two or three representatives of each side. The Archdukes were happy to comply with the request of the Dutch Estates General. Their letter of safe conduct, addressed to the Viceroy of Portugal, was received on 8 September and immediately forwarded to the VOC directors. The yacht *Greyhound* did not set out to sea until 14 October 1609. Its captain, Wemmer van Berchem, only received his commission from the Dutch Estates General that day. A new disappointment awaited Van Berchem in Lisbon. The Viceroy of Portugal refused to have any dealings with him or facilitate the task at hand. Without any Portuguese representatives on board, let alone letters from the Viceroy, the *Greyhound* continued its solitary voyage to Bantam, where it arrived almost a year later.⁵⁵

The Viceroy's refusal to cooperate with Van Berchem boded ill for the captain's mission. It significantly reduced the chance that an armistice would come into effect in the East Indies. This was not immediately clear to the VOC's personnel in Asia, however. When the head of the Dutch factory at Bantam, Jacques L'Hermite Jr., learnt of the terms of the Truce treaty, he confidently predicted that an armistice in the East Indies would work out well for the Company. It was at the instigation of L'Hermite Jr. that Van Berchem continued

⁵⁵ *Resolutiën der Staten-Generaal, 1607–1609* (RGP 131) pp. 693–696 (minutes of 21 & 22 Aug., and 8 Sept., 1609); Stapel, *Geschiedenis van Nederlandsch Indië* Vol. III pp. 81–82; P.A. Tiele, 'De Europeërs in den Maleischen Archipel, Zevende Gedeelte, 1606–1610', *Bijdragen tot de Taal-, Land- en Volkenkunde van Nederlandsch-Indië*, Fourth Series, Vol. 8 (1884) p. 117.

his journey to the Spice Islands and the Philippines in order to spread the news of the Truce and arrange for a prisoner exchange with the Spanish and Portuguese. As L'Hermite Jr. realized, the Company would be the main beneficiary of an exchange of prisoners. One of its most capable commanders, Paulus van Caerden, had been captured for a second time by the Spanish forces in the Moluccas in the summer of 1610. (He would die in imprisonment in Manila five years later.) The Truce treaty served the Company's interests in other ways as well. When L'Hermite Jr. wrote to Jaspas Jansz on 10 November 1610, he noted with satisfaction that "Dutch ships were now free to sail everywhere." He admitted, however, that it might be a challenge for the VOC to win the commercial competition with the Portuguese—"what the effect of the Truce will be, only time can tell, the opinions being diverse." He did not believe that hostilities would be suspended completely nor wanted them to be. While observing the Truce treaty, the Company should make the most of the advantages that it already possessed in the Spice Islands. Willem van der Voort, Dutch governor of Neyra, was instructed by L'Hermite Jr. to prepare for a new offensive in the Banda Islands. Since the Truce treaty stipulated that "each party will keep what it has," the Spanish positions in the Moluccas were effectively off-limits to the new VOC fleet, which was already on its way to Bantam. L'Hermite Jr. concluded that the VOC should switch its forces to the Banda Islands instead. With luck, the new fleet would arrive in time to forestall English attempts at interloping, which he considered much more harmful for the Company than the Bandanese rebellion. On this particular point, L'Hermite Jr. misread the minds of the VOC directors, who still considered the Spanish and Portuguese their biggest enemies, not the English East India Company. Yet they certainly would have approved of his military strategy and bellicose posture. The pacification of the Banda Islands would become a high priority for them during the Twelve Years' Truce. They were also aware that an armistice might never take effect in the East Indies. The Zeeland Chamber of the VOC explained the Truce treaty to its overseas personnel in a letter of January 1610, but warned them to remain on their guard at all times. Armistice or no armistice, they should not "trust the enemy, but always take precautions against surprise attacks."⁵⁶

⁵⁶ Dutch National Archives, VOC 1053, unfoliated (minutes of the Broad Council

Even while they urged the Dutch Estates General to make haste in sending a notification of the Truce treaty to Asia, the VOC directors were more or less convinced that hostilities would continue beyond the Line. Already on 21 August 1609, Their High Mightinesses received a petition from the Company demanding substantial military and financial support for the duration of the Truce. In reply, they deputed four of their members to meet with the directors and determine the costs of the Company's military operations, particularly "the establishment and upkeep of fortresses and garrisons." In addition, they provided a written clarification of article 4 of the Truce treaty and its secret amendment. According to their clarification, the VOC could not trade in those parts of the Indies that were in effective possession of the King of Spain, except with the latter's express permission. More importantly, the subjects of Philip III would not be allowed to trade in any places outside Europe where the "petitioners have authority." This was a partial concession to VOC director Pauw and the Amsterdam magistrates, who had been rebuffed by Oldenbarnevelt and the Estates of Holland when they demanded that it be spelled out in the Truce treaty itself. Their High Mightinesses also let it be known that they would not object to retaliatory measures if the Portuguese would prevent the Company from trading in the "countries of neutral kings and princes," whether by means of "violence or intrigue." In those circumstances, the Company should feel free to bar the Portuguese from trading in the "countries of such neutral kings and princes." Their High Mightinesses acknowledged that the VOC had every right to assist "allied friends" who were attacked by the Spanish or Portuguese and that such assistance could not be considered a violation of the Truce treaty. They also endorsed the report of their *ad hoc* committee on the Indies trade regarding the Company's projected military expenditure. According to the

at Bantam, presided over by Jacques L'Hermite Jr., 3 Dec. 1610; Frederick de Houtman to the VOC directors, 2 October 1610; L'Hermite Jr. to Paulus van Caerden in the Moluccas, 23 Oct. 1610; L'Hermite Jr. to Jasper Jansz at Ambon, 10 Nov. 1610; L'Hermite Jr. to Willem van der Voort at Banda Nera, 10 Nov. 1610) and VOC 7289, unfoliated (letter of the Zeeland Chamber of the VOC, without addressee or date—probably intended for Pieter Willemszoon Verhoef and written in January 1610, just before the departure of Pieter Both's fleet); *De derde reis van de V.O.C. naar Oost-Indië onder het beleid van admiraal Paulus van Caerden uitgezeild in 1606* ed. A. de Booy 2 vols. (The Hague; Martinus Nijhoff, 1968 and 1970) Vol. I pp. 69–82; Stapel, *Geschiedenis van Nederlandsch Indië* Vol. III p. 89.

committee, the VOC would need 100,000 guilders per annum in order to hire four hundred soldiers for garrison duty in the Spice Islands. The Dutch Estates General reached an agreement with the directors on 29 September 1609 and granted them three subsidies of 100,000 guilders, spread over three consecutive years. These subsidies would be deducted from the convoy duties that the Company owed to the Dutch Admiralty Board. Less than a month later, Their High Mightinesses responded favorably to yet another VOC petition, this time drafted by Grotius. They ordered the Dutch Admiralty Board and other federal arms depots to provide the Company with 8,000 bullets, 400 muskets, and powder and shot, all for the benefit of the three hundred VOC soldiers who embarked for the East Indies in January 1610.⁵⁷

The Dutch Estates General did not just provide material support during the Twelve Years' Truce, but also endorsed a whole program of administrative reform, aimed at strengthening the Company's military, naval, and commercial position in Asia. The VOC directors set themselves a twofold task in the autumn of 1609: first, to streamline the decision-making process in the East Indies by appointing a Governor General, and, secondly, to make Company trade more efficient and secure by establishing a fortified rendezvous near Malacca or Sunda Straits. The Amersfoort regent Pieter Both was sworn in as Governor General by Their High Mightinesses on 27 November 1609. Although modeled on the Viceroyalty of Goa and the Governorship of Manila, the new post did not present a clear break with Dutch republican traditions, which stressed widespread consultation and collaboration in government. Unlike the Portuguese Viceroy, Both could not act on his own as a semi-monarchical figure. The VOC directors expected him to govern jointly with five Councilors of the Indies, his principal subordinates in commercial, military and naval affairs. It mimicked well-established naval practices in the Low

⁵⁷ *Resolutiën der Staten-Generaal, 1607–1609* (RGP 131) pp. 693–696, 896; Dutch National Archives, Grotius Papers, Supplement I f. 337–340; *Resolutiën der Staten-Generaal: Nieuwe Reeks, 1610–1679* ed. A. Th. van Deursen (The Hague: Martinus Nijhoff, 1971) Eerste Deel, 1610–1612 (RGP 135) pp. 254–256.

According to their own calculations, the VOC directors paid 76,600 guilders to recruit three hundred soldiers for eighteen months of service in the East Indies. Yet guns, ammunition and particularly food—the fleet that sailed in January 1610 had a complement of 950—allegedly cost the Company almost 300,000 guilders. Compare Rietbergen, *De Eerste Landvoogd Pieter Both* p. 71.

Countries: a Dutch captain did not take important decisions without the approval of the senior merchants and mariners on board his ship (i.e. the Broad Council). For all these checks and balances, the Governor General enjoyed sweeping powers. He was commander-in-chief of the Company's forces in the East Indies, both at sea and on land. He could inspect the accounts of all VOC trading posts, hire and fire their personnel, establish new factories wherever he wanted, and close or move existing ones. He even had the right to appoint the Councilors of the Indies and his own successor. Nor did he have much to fear from undue interference by the Gentlemen XVII. They rarely overruled the decisions of a Governor General, partly because of the enormous distances involved, but mostly because of their own reluctance to meddle with the execution, as opposed to the formulation, of the Company's military, naval, and commercial strategies. Much depended, therefore, on selecting a suitable man for the job. Pieter Both was perhaps not the "threefold man" that the Zeeland VOC directors had in mind—he failed to establish a fortified rendezvous at Jakarta, for example—but he scored some notable successes in the Spice Islands. When it became clear in April 1612 that the Truce would remain a dead letter, Both's presence ensured a vigorous resumption of the war in the Moluccas, which caused a steep decline in Spanish power and influence. Don Jeronimo da Silva, the Spanish commander of Ternate, admitted as much in a stream of letters addressed to his uncle Don Juan da Silva, the Governor of Manila. While Don Jeronimo's pleas for reinforcements went unanswered, Both had sufficient ships and soldiers at his disposal to undo most of the Spanish conquests of 1606–1609. Don Jeronimo must have rued the day that he was forced to reject Both's offer of a cease-fire for lack of orders from Philip III. The combination of administrative reform and unstinting support from the Dutch government gave the VOC the edge over its European competitors in the East Indies for the duration of the Twelve Years' Truce.⁵⁸

The Gentlemen XVII were no empire-builders at heart. It was Cornelis Matelief Jr., their former commander in the East Indies,

⁵⁸ Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 33–56, 47–51, 57–65, 71, 80–103; Boyajian, *Portuguese Trade in Asia under the Habsburgs* pp. 96–100, 106–127, 154–160; Veen, *Decay or Defeat?* pp. 159–166.

who first proposed to appoint a Governor General and construct a fortified rendezvous for VOC fleets. Matelief discussed his reform proposals at great length in four memorandums, written between November 1608 and May 1609. He carefully reviewed the Company's trading network in Asia, and made suggestions for how to reorganize and expand it. The weakness, or complete absence, of institutional structures was an object of great concern to him. Each trading post stood on its own bottom, which fuelled endless strife for pre-eminence between merchants, mariners and soldiers. Nor could the factors be called to account by the commanders of the VOC fleets, whose authority was only temporary, and therefore weak and insufficient. Matelief urged the Gentlemen XVII to make their overseas personnel answerable to a Governor General instead. A permanent and centralized administration in the East Indies would also require the establishment of a fortified rendezvous, preferably in Jakarta. Mindful of his audience, Matelief did not ignore the commercial advantages. It would be so much more economical to use light and nimble vessels for the country trade in Asia, for example. Smaller craft could collect merchandise at various local ports and deliver it in Jakarta, where it would be safely stored until such a time that a big merchantman should take it to the United Provinces. Yet Matelief's ambitions for the Company exceeded that of a maritime empire pure and simple. The fortified rendezvous should become the nucleus of a Dutch settlement, whose inhabitants, preferably retired soldiers, would all do garrison duty and engage in trading ventures that were unprofitable for the Company. Matelief emphasized the financial benefits of colonization: in the short run, it would reduce the high costs of defense, while in the long run it would turn the rendezvous into a thriving commercial center, a second Malacca, which could generate substantial tax revenues for the VOC. With some caveats, the Gentlemen XVII accepted his reform proposals at their half-yearly meeting in September 1609, and submitted them for approval to the Estates of Holland and the Dutch Estates General. In their initial reaction to Matelief's proposals, the VOC directors had been far less enthusiastic.⁵⁹

⁵⁹ Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 39–44, 196–211.

All original and scribal copies of the four memorandums are extant at the Dutch National Archives. Oldenbarnevelt Papers no. 3104 & 3106 are the original copies of Memorandum I, dated 12 November 1608, and Memorandum II, dated

The inertia that the Gentlemen XVII displayed in the winter of 1608/09 had not caught Matelief unawares. The Rotterdam VOC director took the sensible precaution of sending Oldenbarnevelt a copy of his memorandum in November 1608, for example. When the Gentlemen XVII failed to entertain his proposals for administrative reform at their half-yearly meeting in March 1609—they could only agree on appointing a director of trade for the Banda Islands—he decided to contact Oldenbarnevelt again. In his letter of 18 May 1609, he made it very clear that, without a drastic change of strategy in the East Indies, the Company stood to lose much of its trade to the Spanish and Portuguese under the terms of the Truce treaty. He must have conveyed the same message to Grotius. Scribal copies of two of his memoranda are extant in the Grotius Papers at the Dutch National Archives, at least one of which was provided to the Delft jurist by the author himself. This raises a tantalizing possibility. Did the Gentlemen XVII act on the advice of Grotius and Oldenbarnevelt when they finally accepted Matelief's recommendations in September 1609? Just two weeks after the Rotterdam VOC director had written to Oldenbarnevelt, his Amsterdam colleagues expressed their desire to meet with the Estates of Holland about "the establishment of a fortress or safe place." Grotius' involvement is clear from a letter that Matelief wrote to him during the half-yearly meeting of the Gentlemen XVII in August 1610. Matelief reminded Grotius that they had discussed "the state of the East Indies" on several occasions, both orally and in writing. He once

16 January 1609. According to Rietbergen, Memorandum II was written either for the Dutch Estates General or the Gentlemen XVII. Memorandum III survives only in scribal copy. Although undated, it may well have been submitted to the half-yearly meeting of the Gentlemen XVII in March 1609. The original copy of Memorandum IV, addressed to Oldenbarnevelt and dated 18 May 1609, is found in Oldenbarnevelt Papers no 3107. Scribal copies of Memoranda I & II are extant in the Grotius Papers, Supplement I, ff. 461–485 and 486–510.

Memoranda I–IV are printed in J.G. Frederiks, "Cornelis Corneliszoon Matelief de Jonge en zijn geslacht," *Rotterdamsche Historiebladen*, 3e afdeling, 1e deel (Rotterdam, 1880) pp. 237–328. Memoranda I and IV have also been reproduced in Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 196–211, and Veenendaal, *Johan van Oldenbarnevelt* (RGP 108) pp. 319–327. The scribal copy of Matelief's letter to Grotius (31 Aug. 1610) has been included in *Briefwisseling van Hugo Grotius* Vol. XVII pp. 71–75.

Compare Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 39, 134 (footnotes 3 and 6); Dutch National Archives, VOC 100 f. 34, 41; R. Bijlsma, 'De discoursen van Cornelis Matelief de Jonge over den staat van Oost-Indië 1608–1610', *Nederlands Archievenblad* vol. 35 (1927–1928) pp. 49–53.

again needed Grotius' help to put pressure on the Gentlemen XVII, with whom he intended to raise several important issues, including the location of a fortified rendezvous and the Company's dealings with both indigenous princes and its English competitor. He entreated Grotius to back him up, and "if necessary, to confront the directors with such considerations of mine as you deem important to their welfare." Matelief's imperial ambitions for the Company were clearly those of Grotius as well. In all likelihood, it was the lobbying campaign of Matelief, Grotius and Oldenbarnevelt that persuaded the Gentlemen XVII in September 1609 to approve Matelief's proposal to appoint a Governor General and establish a fortified rendezvous in the East Indies.⁶⁰

Grotius' powerful ideological influence is confirmed by the minutes of the meeting of the Gentlemen XVII in September 1609. The VOC directors decided to send new instructions to the East Indies, urging their commanders to comply with the terms of the Truce treaty. The resolution was rather defiant in tone. VOC commanders should keep possession of the "conquered territories," along with the "Company's fortresses, islands and places," and ensure that the VOC could trade freely with both its indigenous allies and other sovereign princes in Asia. The Gentlemen XVII prefaced their resolution with an unusually long and detailed justification of the armed conflict in Asia that, presumably, would end with the prospective armistice. Their justification of six years of continuous warfare was saturated with Grotian rhetoric. They explained that they had sought to defend freedom of trade and navigation in a just and public war, which had been waged "for the increase and preservation of the East Indies trade, for the welfare of the country and the profit of the Company." VOC commanders had been under orders to

do the greatest possible damage to the Spanish and Portuguese and their adherents, the common enemy of the United Provinces, both in

⁶⁰ Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 39–45; Dutch National Archives, Grotius Papers, Supplement I, ff. 524–531 (Matelief to Grotius, 31 Aug. 1610), printed in Frederiks, "Cornelis Corneliszoon Matelief de Jonge en zijn geslacht" pp. 328–336 (appendix L) and *Briefwisseling van Hugo Grotius* Vol. XVII pp. 71–75; *Register van Holland en Westvriesland, 1607–1609* p. 940.

Matelief noted in the margin of his letter to Grotius: "I have not given this to His Excellency [i.e. Prince Maurice], nor to the Advocate [i.e. Oldenbarnevelt], as it was inopportune." Compare Frederiks, "Cornelis Corneliszoon Matelief de Jonge en zijn geslacht" p. 328.

the destruction of their ships and the capture of their fortresses, by means of which they had obstructed and harmed the Company's trade.

The Gentlemen XVII had adopted these measures because of the "extraordinary and cruel procedures of the Portuguese," which had been directed against both the VOC and its predecessors, even though "the personnel of the Old Company [of Amsterdam]" had always treated the Portuguese "in the manner proper to merchants." Yet the harassment of Dutch merchants and mariners could not satisfy the power-hungry Habsburg foe. The Portuguese had tried to overpower "all peoples in the Indies not subject to them," and reduce the natives to obedience "by means of every sort of cruelty." They had attacked the Spice Islands, Johore and Bantam for no other reason than to eradicate Dutch trade. The result had been a "public war" in the East Indies, which was temporarily suspended because of the Truce treaty. Although the Gentlemen XVII fully intended to abide by its terms, the preamble of their resolution was a remarkable, because essentially Grotian, defense of the Company's political and commercial interests. First formulated in *De Jure Praedae*, it had been repeated in almost every VOC petition submitted to the Dutch Estates General, quite a few of which had been drafted by the Delft jurist, of course. Judging by their minutes, the Gentlemen XVII had thoroughly internalized the argument of *De Jure Praedae* on the eve of the Twelve Years' Truce. The Company was said to have upheld freedom of trade and navigation in its battles with Iberian *armadas*, and to have punished the Spanish and Portuguese for the incessant harassment and intimidation of innocent Dutch merchants and their indigenous trading partners. Grotius' justification of Dutch colonialism and imperialism had clearly taken root in the VOC boardrooms. It would facilitate the Company's encroachment on the *Estado da India* for many years to come.⁶¹

⁶¹ Dutch National Archives, VOC 100 f. 70–71 (minutes of the meeting of the Gentlemen XVII on 5 Sept. 1609).

In Grotius' time, only the VOC directors had access to the minutes of the meetings of the Gentlemen XVII. The minutes reflected the consensus that had been reached among the VOC chambers—they were not intended to please Dutch politicians. This makes it all the more remarkable that Grotius' arguments were reproduced wholesale in the minutes of the meeting of the Gentlemen XVII on 5 September 1609.

5.4 *Conclusion*

Although Grotius was not directly involved in the pamphlet wars of the summer of 1608 or the Truce negotiations that followed it, his defense of the Company's commercial interests remained a constant in Dutch politics. The memorandum that Grotius had written for the Gentlemen XVII in January 1608 became a source of inspiration for three VOC pamphlets published anonymously that spring and summer. The Company's hack writers repeated many of Grotius' arguments. They did not just plead for freedom of trade and navigation in the East Indies, but also suggested that, if Philip III excluded the VOC from a peace agreement, its directors would be happy to continue the war beyond the Line. They agreed with Grotius that a Dutch withdrawal from the East Indies would have disastrous consequences, both for VOC shareholders, who might end up with nothing, and for the United Provinces as a whole. They carefully calculated the contribution that the Indies trade had made to the Dutch economy, both in terms of employment and annual earnings, and emphasized the importance of having a strategic reserve of warships and seafarers, which the VOC could lend to the Dutch Admiralty Board in times of need. Without this strategic reserve, the United Provinces would be of little value to its European allies, particularly the French and English monarchs. Nor could Their High Mightinesses in good conscience abandon the Company's indigenous trading partners, who, by virtue of the VOC contracts, happened to be their allies as well. If they revoked the Company's charter or promised Philip III not to renew it, Asian princes and peoples would be at the mercy of the Spanish and Portuguese, and think twice before ever trading with Dutch merchants again. Like Grotius, the Company's hack writers concluded that anything short of total freedom of trade and navigation, whether guaranteed in a peace treaty or enforced by war, would inevitably result in a permanent Dutch withdrawal from the East Indies. It was not difficult to get this message across to the war party pamphleteers, who quickly incorporated it in their own fulmination against a possible peace treaty.

How did the increasing polarization of Dutch politics in the autumn of 1608 affect Grotius and the VOC directors? Were they aligned with either the peace or the war party? *Mare Liberum* was indeed commissioned in the context of dogged Zeeland resistance against Jeannin's and Oldenbarnevelt's proposals for a truce of many years.

Yet the Calvinist rhetoric of the war party publications was entirely lacking in both *Mare Liberum* and the other VOC pamphlets. Nor did Grotius write *Mare Liberum* for a domestic audience. Although it would be useful to “assure the inhabitants of these provinces of the worthiness of the cause,” the Zeeland VOC directors made it clear to Grotius that his first priority should be to address “neighboring princes and monarchs” and persuade them “to help defend the nation’s rights.” Grotius’ correspondence with Johan Boreeel confirms that he was engaged in a careful balancing act, and did not want to be involved in the raucous political debates of the autumn of 1608. Decisions about war and peace were best left to the Dutch Estates General. The VOC directors also realized that they had little to gain, and much to lose, from rejecting the Truce negotiations as such, and that, instead, they should lobby the Dutch Estates General for the best possible deal for the Company. As Grotius noted in *Mare Liberum*, it was imperative to “wholly maintain that liberty which we have by nature, whether we have peace, truce or war with the Spaniard.” For the sake of the common good, Grotius was even willing to forego the publication of *Mare Liberum* in March 1609, when Oldenbarnevelt did not want to risk a last-minute derailment of the Truce treaty.⁶²

What purpose did *Mare Liberum* serve once it finally appeared in late April 1609? Although originally intended to influence the high-level negotiations, *Mare Liberum* proved very useful for the Dutch Estates General and the VOC directors in justifying their implementation of the Truce treaty. At the directors’ request, Jeannin had persuaded the Archdukes’ representatives to sign a secret amendment that guaranteed the Company access to Asian markets for the duration of the Twelve Years’ Truce. Yet Philip III never ratified this secret amendment. When the *Greyhound* reached Bantam in September 1610, there was no Portuguese representative on board, nor did its captain have a letter of safe conduct from the Viceroy in Lisbon. The VOC factors in Bantam nevertheless intended to implement the Truce treaty in accordance with the instructions of the Gentlemen XVII, and confidently predicted the treaty’s benefits

⁶² *Briefwisseling van Hugo Grotius* Vol. I p. 128; Grotius, *The Free Sea* ed. Armitage p. 57.

for the VOC. It was only in April 1612 that the Company resumed its attacks on the Spanish in the Moluccas, following fruitless talks between Governor General Pieter Both and Don Jeronimo da Silva. The directors had prepared for this eventuality, of course. They met with Oldenbarnevelt, Grotius and representatives of the Dutch Admiralty Board in January 1609 in order to determine what kind of naval and military support the Company would need during the Twelve Years' Truce. Under pressure from Matelief, Oldenbarnevelt and Grotius, they also agreed to far-reaching administrative reforms in the autumn of 1609. The appointment of a Governor General and the establishment of a fortified rendezvous near Sunda or Malacca Straits were initially intended to streamline and secure Company trade during the Twelve Years' Truce. When it failed to take effect in the East Indies, these administrative reforms allowed the VOC to tighten its hold on the Spice Islands, at the expense of the natives and its European competitors. Ironically, the Gentlemen XVII could not be shaken in their belief that the Company was the sole defender of freedom of trade and navigation in the East Indies. It is evident from the minutes of their meeting of 5 September 1609 that they had thoroughly internalized Grotius' arguments. Already in March 1611 did the Gentlemen XVII require retrospective approval of the resumption of hostilities in Asia, a request which was duly granted by Their High Mightinesses. A Dutch translation of *Mare Liberum* appeared in print three years later, personally endorsed by Grotius and fully licensed by Their High Mightinesses.⁶³

⁶³ *Resolutiën der Staten-Generaal: Nieuwe Reeks* (RGP 135) pp. 350–352; *Resolutiën der Staten-Generaal: Nieuwe Reeks* (RGP 151) pp. 175, 300, 339, 368–369, 381; *Register van Holland en Westvriesland, van de jaaren 1610, 1611, en 1612* pp. 298, 304; *Bibliographie des écrits imprimés de Hugo Grotius* ed. Jacob ter Meulen and P.J.J. Diermanse (The Hague: Martinus Nijhoff, 1950) pp. 217–218; *Briefwisseling van Hugo Grotius* Vol. I p. 337; Fruin, *Verhooren en andere bescheiden betreffende het rechtsgeding van Hugo de Groot* p. 33.

CHAPTER SIX

VOC SPOKESMAN AND LOBBYIST DURING THE TWELVE YEARS' TRUCE

6.1 *Introduction*

In previous chapters we have seen how Grotius justified the VOC offensive against the *Estado da India* by means of a rights theory that assumed the full humanity and unencumbered sovereignty of indigenous peoples, who were, essentially, rights-bearing individuals. With the exception of Malacca, the writ of the Portuguese simply did not run in the Malay Archipelago. Native princes and their subjects were therefore entitled to freedom of trade and navigation, just like the inhabitants of the United Provinces, who fought a war of independence against the King of Spain and Portugal. Suitably impressed by the superior firepower of Dutch warships, the rulers of Johor, Aceh, Bantam and Ternate, to name a few, had allied themselves with the VOC and granted trading privileges in exchange for protection against the Habsburg enemy. Strictly speaking, the Company did not need a mandate from its Asian allies in order to initiate hostilities against the *Estado da India*. Portuguese obstruction of Dutch trade was a sufficient warrant for the VOC to punish transgressions of the natural law and exact damages for injuries sustained. Grotius was determined, however, to conceptualize the VOC as the liberator of oppressed 'Indians' as well.

In his view, the Company could not earn the trust of indigenous peoples unless it made a sustained attempt to oust the Spanish and Portuguese from the East Indies. Grotius urged VOC shareholders to embrace the Company's military strategy and relinquish any thoughts of immediate financial gain. He praised the VOC directors for their steadfast commitment to the overseas war effort, and expected Dutch magistrates to do their bit as well. Indeed, the Company could hardly have survived, let alone fought a war of liberation against Portuguese 'tyranny', if it had not been for the political support and military and financial aid provided by the Dutch authorities. The VOC was crucially dependent on the favors of the Estates of Holland

and Dutch Estates General in order to maximize its privateering profits, foil Henry IV's attempt to establish a French East India Company, and secure its political and commercial interests during the Peace and Truce Negotiations of 1607–1609. Indeed, its alliances with indigenous peoples had been a decisive argument in countering Spanish demands for a Dutch withdrawal from the East Indies.

As Grotius noted in his memorandum for the Gentlemen XVII of January 1608, the VOC could not withdraw its forces from the East Indies in good faith and leave the natives at the mercy of the Spanish and Portuguese. The Dutch Estates General should honor the VOC contracts and alliances, and demand that Philip III endorse freedom of trade and navigation in the East Indies or, at the very least, tacitly agree to a continuation of hostilities there. Otherwise it would be impossible for the VOC to guarantee the safety of its indigenous trading partners. Persuaded by Grotius' arguments, the Dutch Estates General took several precautions before signing the Twelve Years' Truce. In case it never took effect in Asia, the Company would have the right to continue the war there, as stipulated in the Treaties of Guarantee. Although the French and English monarchs were unlikely to declare war on Spain for the sake of, let's say, the Sultan of Johore, they could hardly prevent the VOC from doing exactly that. The Company emerged intact from the Peace and Truce negotiations precisely because it championed freedom of trade and navigation, and played this role to perfection. Ironically, the VOC lost its reputation as the liberator of oppressed 'Indians' during, yes, the Twelve Years Truce. When English merchants started to outbid the Dutch in the Spice Islands, the latter resorted to harassment and intimidation, and, increasingly, the use of force in order to make the natives honor the delivery contracts.

Grotius' rights theories were ill suited for dealing with the English challenge. *Mare Liberum* was cited at the Anglo-Dutch colonial conferences of 1613 and 1615 in justification of English interloping in the Spice Islands. The EIC directors took *Mare Liberum* to mean that freedom of trade and navigation had been mandated by natural law and could not be abridged in any way, least of all by the spurious Iberian claims to the East Indies—i.e. the titles of discovery, the papal donation, prescription, possession, etc. They used the same argument against the VOC's obstruction of English commerce. Freedom of trade and navigation was a fundamental right for everyone, which could never be alienated or lost in its entirety, the VOC's

contracts and alliances with the natives notwithstanding. They doubted very much whether these contracts were as restricted in nature as Grotius, the head of the VOC delegation, claimed at both conferences. Had the inhabitants of the Spice Islands really promised to deliver all their cloves, nutmeg and mace to the VOC in perpetuity, just for the sake of protection against their enemies? The EIC negotiators pointed out that Verhoef's murder in May 1609 had ignited a full-scale war in the Banda Islands, and that the Dutch garrison at Neyra was under constant siege from the natives. Clearly, the Bandanese regarded the Dutch as their enemies, not their friends, and preferred to sell their spices to English and Javanese merchants instead. Even if the Bandanese had contracted to deliver all their spices to the VOC, this must be immaterial to its London competitor. The VOC should tackle the natives about their failure to honor the delivery contracts, rather than the English, who were no party to these. EIC merchants had always been on good terms with the inhabitants of the Spice Islands, and would have done an even brisker trade there if it had not been for Dutch harassment and obstruction.

Grotius was hard pressed to answer the English challenge. He had developed his rights theories for the sole purpose of defending Dutch interloping in *Asia Portuguesa*. Freedom of trade and navigation was supposed to benefit his compatriots, not the English. Grotius assumed, perhaps rather naively, that if indigenous peoples were given a free choice, they would prefer the VOC to the high-handed Portuguese, especially if they received proper security guarantees. It never occurred to him that, once liberated from Iberian tyranny, the inhabitants of the Spice Islands might choose to sell their produce to the highest bidder, be they Dutch, English or Javanese. Nor did he want to admit that the natives had good reasons for cultivating the English. The Dutch military presence in the Spice Islands increased dramatically during the Twelve Years' Truce, which prevented their reconquest by Iberian forces, to be sure, but also served to intimidate the inhabitants. The latter resented the fact that they had to make more concessions to the VOC in every new contract, which severely reduced their room for maneuver. They tried to use the English as a counterweight against the otherwise inexorable rise of Dutch power, albeit without much success.

Ever the VOC apologist, Grotius sharply criticized English commercial competition in the Spice Islands, which, in his view, had nothing to do with free trade, but blatantly disregarded the natural

law principle *pacta sunt servanda* (contracts must be honored). The Anglo-Dutch colonial conferences saw a subtle shift in emphasis in Grotius' natural law and natural rights theories. Although the universal freedom of trade and navigation, shared by Asians and Europeans alike, had been uppermost in his mind while writing *De Jure Praedae*, the observance of treaties was his biggest concern ten years later. In his replies to the EIC negotiators, he argued that, even though the English were not guilty of breach of contract themselves, they certainly abetted the 'crimes' of the natives. The inhabitants of the Spice Islands failed to deliver the goods which they had promised to the VOC, mainly because they received both firearms and a higher price for their wares from its English competitor. Grotius wanted to show the EIC directors the error of their way by providing them with copies of the delivery contracts, which stipulated that the natives could trade with the VOC only. True, a few rebels in the Banda Islands refused to abide by these conditions. Their obstinacy did not invalidate the contracts. It was entirely appropriate that the VOC, which enabled the natives to lead safe and secure lives, should receive spices in return for military and naval protection. In the old days, people had been known to sell themselves into slavery in order to save their skins, which was a perfectly normal thing to do according to Roman law. The inhabitants of the Spice Islands were much more fortunate: they might have lost their self-determination in economic affairs, but not in any other sense. It was clear to Grotius that the EIC tried to reap where others had sown, which smacked of outright ingratitude. Without the VOC, there would not be any freedom of trade and navigation in the East Indies at all—the London merchants were, quite literally, riding on Dutch coattails. The EIC had ungraciously tried to deprive his compatriots of their trade in the Spice Islands, instead of opening up new markets elsewhere. Yet the trade in nutmeg, mace and cloves was potentially so profitable that the VOC directors were determined to claim it for the Company. Without these revenues, they simply could not continue to engage the Iberian forces in the East Indies. They therefore reserved the right to deny the English access to the Spice Islands in future. To the bewilderment of the EIC negotiators, Grotius argued that a company of private merchants became both judge and executioner in its own cause in the absence of an independent and effective judge. Needless to say, this aspect of Grotius' rights theo-

ries was not conducive to any kind of compromise between the VOC and EIC.

There were other reasons for the failure of the Anglo-Dutch colonial conferences. Both sides were insufficiently authorized to make any concessions. During the first round of negotiations in London in 1613, the Dutch delegation was under orders from Oldenbarnevelt not to give in to English demands for access to the Spice Islands, unless the EIC promised to take up arms against the *Estado da India* alongside the VOC. As a result, the first Anglo-Dutch conference ended without an agreement between the two companies. Yet Grotius' forceful pleas for a joint Anglo-Dutch offensive against the Iberian forces in Asia were not without effect. He succeeded in privately convincing the English negotiators at the second conference in The Hague in 1615. The response of James I of England was less enthusiastic. The King expressly forbade his envoys to make any concessions that might endanger England's peace with Spain. James' interference left the English negotiators in limbo, and caused a collapse of the talks. Ironically, the two companies would reach a comprehensive agreement for military and commercial cooperation at the follow-up conference in London in 1619, thanks to the untiring efforts of the King of England to bring this about.

The Anglo-Dutch colonial conferences have generated plenty of controversy among Grotius scholars and Dutch historians in the past century. W.S.M. Knight, the first English biographer of Grotius, was very critical of his hero's performance as VOC spokesman. He believed that Grotius had been overzealous in his defense of Dutch commercial interests and shamelessly compromised the central tenets of *Mare Liberum*. Knight's view, first expressed in the *Transactions of the Grotius Society* in 1920, has been quite influential. Jonathan Israel echoes it, for example, in *Dutch Primacy in World Trade*, published in 1989. According to Israel,

[i]t apparently caused Grotius—whose celebrated *Mare Liberum* employed every conceivable argument to prove (in opposition to Portuguese claims) that the seas were open to all—no trouble to reverse his own arguments and insist in London that the English had no right to participate in a traffic which the Dutch had 'conquered' from the Portuguese at great cost in blood and treasure.

Other historians have taken a more measured view. W.J.M. van Eysinga printed nearly all the documents relating to the Anglo-Dutch



Fig. 20. Portrait of James I of England.

colonial conferences in *Bibliotheca Visseriana* in 1940. G.N. Clark published his authoritative study of these negotiations in the same series in 1951. Although Eysinga's source edition was not flawless, it did allow Clark to write a very detailed and evenhanded account of Grotius' brief stint as a Dutch diplomat and VOC negotiator. Clark could prove that Knight had arrived at his extreme position by misconstruing the dispatches of Antonio Foscarini, Venetian ambassador in London at the time of the 1613 conference. In his own assessment of Grotius, Clark took an intermediate position between Eysinga's uncritical admiration and Knight's censoriousness. When considering Grotius' memorandums—written exchanges were *de rigueur* at both conferences—he lauded the “display of reasoned eloquence,” but deemed them written “in the manner of the advocate, not the diplomatist.” He believed that Grotius had been “insensitive to the impression he made on other people,” and fallen too readily “into the advocate's habit of putting his opponents in the wrong.” Yet he admitted that the VOC and Dutch Estates General had never disowned Grotius for his handling of the negotiations and that Oldenbarnevelt might well have been grateful to him for keeping the negotiations afloat for as long as he did.¹

Clark's interpretation, though still widely accepted, has been modified in recent years. C.G. Roelofsen revisits the historiographical controversy in his essay ‘Hugo Grotius and the VOC’ (1996) and criticizes the artificial distinction between “Grotius the legal scholar and Grotius the diplomat,” which “inevitably isolates him from the context wherein he worked and distorts our image of him.” Instead,

¹ W.S.M. Knight, ‘Grotius in England: His Opposition There to the Principles of the *Mare Liberum*’, *Transactions of the Grotius Society* 5 (1920) pp. 1–38; Jonathan I. Israel, *Dutch Primacy in World Trade, 1585–1740* (Oxford: Clarendon Press, 1989) pp. 104–105; Eysinga and Clark, *The Colonial Conferences between England and The Netherlands in 1613 and 1615 passim*; W.J.M. van Eysinga, *Huigh de Groot: een schets* (Haarlem, 1945) pp. 47–50; Clark, ‘Grotius's East India Mission to England’, *Transactions of the Grotius Society* 20 (1935) pp. 45–84, especially pp. 74–76, 84; Clark, *The Colonial Conferences* pp.106, 80, 100.

Volume XV of *Bibliotheca Visseriana*, edited by W.J.M. van Eysinga, includes transcriptions in Dutch, English, French and Latin of nearly all the archival sources relating to the conferences. Clark's monograph is vol. XVII of the series. Another, and much better, transcription of Grotius' official report on the 1615 conference, written for the Dutch Estates General, was recently published in the *Briefwisseling van Hugo Grotius* Vol. XVII pp. 122–137. I would like to thank Dr. Nellen for providing me with an advance copy of his transcription.

Roelofsen propagates a biographical approach, which, in his view, would lead to a better understanding of Grotius' role at the Anglo-Dutch colonial conferences. Unfortunately, his essay is little more than a summary of the existing literature and yields no new insights. The contrary is true of the unpublished doctoral dissertation of J.C. Grayson, 'From Protectorate to Partnership: Anglo-Dutch Relations, 1598–1625' (1978). The thesis examines a whole range of commercial disputes between England and the United Provinces in the second decade of the seventeenth century. Grayson puts the Anglo-Dutch colonial conferences squarely in the context of diplomatic negotiations over, for example, Dutch imports of English broadcloth and silver coin, the North Sea herring fisheries, which King James was eager to tax, and whaling at Spitzbergen, where Dutch and English whalers frequently came to blows. In comparison with Clark, he has a much better sense of the internal dynamics and political parameters of the Anglo-Dutch colonial conferences. He correctly argues that, although Oldenbarnevelt and James I could not ignore the complaints of the VOC and EIC directors, neither statesman had any intention of sacrificing the Anglo-Dutch alliance for the sake of these trading companies. Grayson also puts the negotiations of 1613 and 1615 in a proper historical perspective by analyzing Anglo-Dutch relations over a longer period of time. He takes the story up to the London conferences of 1619 and 1621–23, for example. He is quite right to emphasize James' crucial role in these later conferences, when the King was actively involved in forging an agreement between the Dutch and English East India Companies.²

A related issue that has been raised in the modern literature on the Anglo-Dutch colonial conferences is the question whether Grotius can be held morally responsible for the twin evils of Western imperialism and colonialism. In his monograph *Grotius and the Law of the Sea* (1965), F.E.R. de Pauw accuses the VOC apologist of outright hypocrisy, citing the apparent disconnect between theory and practice in the Company's treatment of the English. Pauw notes that VOC commanders like Jan Pieterszoon Coen had no qualms about

² C.G. Roelofsen, 'Hugo de Groot en de VOC' in: *De Hollandse jaren van Hugo de Groot* ed. Nellen and Trapman pp. 57–66 (quotations on p. 59); J.C. Grayson, "From Protectorate to Partnership: Anglo-Dutch Relations, 1598–1625" (unpublished D.Phil., University of London, 1978) pp. 174–210, 250–276.

using the Company's military and naval power against European competitors and indigenous peoples alike, and that Grotius sanctimoniously defended these hostilities as, in fact, the natives' deliverance from Iberian tyranny. In Pauw's own words,

Between the "protection of the native population" advanced by Grotius and the extermination which was in fact taking place, between the "monopoly of no importance for the East Indians" and the right of monopoly in reality obtained and maintained by force of arms there exists such a gap that the modern critical reader finds it difficult to accept the position adopted in London as sincere.

B.V.A. Röling endorses Pauw's analysis in his essay 'Are Grotius' Ideas Obsolete?' (1992). According to Röling, the doctrine of the just war has served to justify Western colonialism and imperialism, certainly in its Grotian incarnation. The VOC negotiator was completely silent on the "horrors committed in the Indies and elsewhere" during the Anglo-Dutch colonial conferences, nor did he in any way object to the "contents of the iniquitous peace treaties concluded with subjected peoples." His high-minded theories were nothing more than a fig leaf for the "most selfish political acts," including the subjugation of "non-European peoples to European authority." Martin van Gelderen distances himself from the Röling thesis in his article 'The Challenge of Colonialism: Grotius and Vitoria on Natural Law and International Relations' (1993/4). Yet Van Gelderen admits that the Grotian concept of international society appears to make the enforcement of human rights entirely a matter of chance. His reading of *De Jure Praedae* suggests that "intervention on behalf of human rights is merely permissible, if reasonable." In his view, Grotius conceptualized all private and public actors in international relations as striving for their own self-preservation, although still under a moral obligation to observe the precepts of the natural law. Could Grotius have been an unwitting accomplice of Western imperialism and colonialism, as argued by Van Gelderen? Or was he a self-conscious and unrepentant defender of this unsavory cause, as imagined by Röling?³

³ F.E.R. de Pauw, *Grotius and the Law of the Sea* Publications du Centre de droit international et de sociologie appliquée au droit international (Brussel, 1965) pp. 58–59; Pauw, *Het Mare Liberum van Grotius en Patijn* (Bruges, 1960) pp. 60–62; B.V.A. Röling, 'Are Grotius' Ideas Obsolete?', *Hugo Grotius and International Relations* ed. Hedley Bull, Benedict Kingsbury and Adam Roberts (Oxford: Clarendon Press, 1992) pp. 281–299 (quotations on pp. 296–297); Martin van Gelderen, 'The Challenge

It is impossible to address in the space of this chapter all the issues that have been raised in the secondary literature regarding the Anglo-Dutch colonial conferences. Yet the question whether Grotius can be held morally responsible for the twin evils of Western imperialism and colonialism clearly deserves further investigation. What did Grotius know about the troubled three-way relationship between VOC officials, English interlopers and the inhabitants of the Spice Islands at the time of the Anglo-Dutch colonial conferences? Which arguments did he have at his disposal to state the Company's case? What was the reaction of the English negotiators? And, finally, did it matter? Why were the talks so unproductive? Did Grotius' interpretation of natural rights and natural law result in irreconcilable differences between the Dutch and English delegations? Or were larger political considerations involved? In order to resolve these issues, this chapter has been divided into two parts. The first half is an analytical account of the Anglo-Dutch colonial conferences, which pays special attention to Grotius' exchanges with the English negotiators, including his (failed) attempt to convince them of the merits of his rights and contract theories. As noted earlier, the lack of agreement between the two sides was ultimately due to the short-term political calculations of both Oldenbarnevelt and James I, who did not authorize their envoys to make any significant concessions. The second half of this chapter examines Grotius' sources of information and the use he made of them. How familiar was he with the political, military and economic situation in the East Indies? What was his interpretation of the letters, reports, etc. that the VOC directors had received from Asia and forwarded to him? It focuses in particular on five EIC voyages to the Spice Islands in the period 1604–1613, which were a bone of contention at the Anglo-Dutch colonial conferences. It is instructive to compare published English sources with the Grotius Papers and VOC letter-books at the Dutch National Archives. A variety of strong-arm tactics were used by VOC officials to prevent English trade with the natives. Yet Grotius' understanding of what went on behind the scenes must have been uneven at best. In some instances he was extremely well-informed, while in others he was simply misled by his sources. (The same applied to

of Colonialism: Grotius and Vitoria on Natural Law and International Relations', *Grotiana* New Series 14/15 (1993/4) pp. 3–37 (quotation on p. 37).

the VOC directors themselves, by the way.) Although the reports of Laurens Reael, the Dutch governor of the Moluccas, should have given him pause, the other materials at his disposal gave him little reason to discard his heroic image of the VOC as the natives' liberator from Iberian tyranny. His most important contribution to the development of Western colonialism and imperialism is his radical rights and contract theories, first formulated in *De Jure Praedae*, not his alleged hypocrisy. Both Pauw and Röling defeat their own ends when they argue that Grotius knew or should have known about Dutch atrocities in the Spice Islands by the time of the Anglo-Dutch colonial conferences.

A careful study of his sources of information reveals that Grotius was no less conversant in colonial affairs than the VOC directors, who provided him with a representative selection of the news that had reached them from the East Indies. The Grotius Papers at the Dutch National Archives include a long summary of various letters from Asia, which Delft director Dirck Meerman submitted to the Gentlemen XVII in August 1612. In all probability, Grotius read Meerman's summary in preparation for the 1613 conference. His papers also contain copies of the consultations between Laurens Reael and members of the Broad Council, dated 31 March through 15 April 1613. The Dutch Governor of the Moluccas had to do quite a bit of political arm-twisting at the court of Ternate in order to thwart John Saris' attempt to trade there. Grotius must have acquainted himself with these disquieting materials in preparation for the 1615 conference. Still, he would have been hard-pressed to distill from them what Pauw and Röling call the "terror" of Dutch imperialism, not because of any censorship on the part of the VOC directors, but because the real horrors of Dutch colonialism were still far in the future. Pauw and Röling flagrantly overstate their case in holding Grotius responsible for Coen's brutal assault on the Banda Islands in 1621 and the Amboyna Massacre of 1623. Grotius did not have any influence on VOC policy-making as a political prisoner at Loevestein Castle from 1619 until 1621 or as an exile in Paris thereafter.⁴

⁴ Dutch National Archives, Grotius Papers, Supplement I, fol. 103–114, 229–238, 588–604.

What can be said about Grotius' line of reasoning at the Anglo-Dutch colonial conferences? Did he hopelessly contradict himself, as claimed by Knight *et alii*? Or did his thinking undergo a shift in emphasis instead? Grotius was smart enough never to say anything that was in formal contradiction with *De Jure Praedae*. Yet he certainly reformulated his argument and extended it in new directions for the purpose of defending the Company's vested interests. In the face of English interloping in the Spice Islands, it was absolutely necessary to set clear limits to the freedom of trade and navigation. This was not just a self-serving move of a VOC lobbyist. It could be argued, with some justification, that freedom of trade and navigation would soon be extinguished if the VOC granted its English competitor equal access to Ambon, the Banda Islands and the Moluccas. All the EIC directors ever wanted, so it seemed to Grotius, was a free ride at the expense of the VOC. They refused to join the VOC's crusade against the Spanish forces in the Moluccas, even though the spice trade would be utterly lost without it. As Grotius noted, the natives did not dare to defy the Iberian powers on their own. The English negotiators ultimately recognized the validity of his argument. Yet they understood little of his rights and contract theories, and to the extent that they did, rejected his views. Their definition of contracts, unlike Grotius', still left room for a residual freedom of trade, for example. They were puzzled by his argument, taken directly from *De Jure Praedae*, that a private trading company was entitled to enforce natural law in the Spice Islands and could freely punish the natives for breach of contract and their surreptitious English customers for abetting that 'crime'. As a justification of the VOC's incipient monopoly of trade in the Spice Islands, Grotian rights and contract theories were certainly one of a kind.⁵

Did any of this matter? Would the outcome of the Anglo-Dutch colonial conferences have been the same without Grotius' active involvement, or, for that matter, without the legal sparring that characterized the negotiations? The chances of an agreement were rather slim anyway, for the political leaders of England and the Dutch Republic left the negotiators little leeway. When Oldenbarnevelt wrote to the VOC commissioners in London in May 1613, he felt

⁵ Clark, *The Colonial Conferences* pp. 67–73, 99–114; National Archives, London, SP84/71 fol. 19v and SP84/71 fol. 78v.

confident that the English would concede in the end, and instructed the commissioners accordingly. Two years later, the English negotiators in The Hague received letters from the English Privy Council that expressly forbade them to enter into any treaty with the Dutch that might endanger the King's peace with Spain. In these circumstances, the only thing that Grotius could do was play for time. His lengthy discourses on rights and contract theory served that purpose very well, even though it exasperated the English negotiators. Only when the VOC and EIC directors set their legal claims aside at a follow-up conference in 1619 did they reach a compromise, albeit in Grotius' absence. Ironically, the treaty of London constituted an acknowledgement by the EIC that a joint Anglo-Dutch war effort was necessary to secure the trade in the Spice Islands, something that Grotius had argued all along.⁶

6.2 *Grotius' Justification of a Dutch Monopoly of the Spice Trade (I):
Rights and Contract Theory at the Anglo-Dutch Colonial Conferences of
1613 and 1615*

The Dutch East India Company remained dependent on Grotius' services as a legal adviser and political lobbyist during the Twelve Years' Truce. His star was rising fast in Dutch politics. He succeeded Oldenbarnevelt's brother as Pensionary of Rotterdam in 1613, which made him a member of the Estates of Holland. Just four years later, he was deputed to the Dutch Estates General as a representative of his home province. Naturally, the VOC directors wanted to stay on good terms with this up-and-coming politician. He was appointed the Company's spokesman for two rounds of negotiations with the English East India Company, which took place in London in 1613 and The Hague in 1615, respectively.⁷

The Anglo-Dutch colonial conferences were essentially an attempt at political and commercial damage control, but with mixed results. Competition for the spice trade had created ill will between VOC and EIC servants as early as 1605. When Henry Middleton visited

⁶ *Briefwisseling van Hugo Grotius* Vol. XVII p. 104; National Archives, London, SP84/71 fol. 19v and 78v; Grayson, 'From Protectorate to Partnership' pp. 258–269.

⁷ Smit, 'De Rotterdamse jaren van Hugo de Groot' pp. 125–143; Roelofsens, 'Hugo de Groot en de VOC' pp. 62–63.

the Moluccas that year, he obtained cloves from the Portuguese commander of Tidore in exchange for guns and ammunition, much to the dismay of the VOC officials, who actively supported the Sultan of Ternate in his efforts to chase out the Portuguese. The English captain, for his part, was disappointed at the fact that England's alliance with the United Provinces counted for little in the Spice Islands. Apparently, Dutch merchants felt no need to reciprocate the favors bestowed upon their country by Queen Elizabeth and King James. They claimed a perpetual right of preemption in the Moluccas by virtue of their contract-cum-alliance with the Sultan of Ternate, who relied heavily on the VOC's military and naval support. English attempts to trade in the Banda Islands in 1609 and 1610, in the Moluccas in 1608 and 1613, and at Ambon in 1605, 1610 and 1613 were rebuffed by the Dutch as well, each time with an appeal to the special nature of the Company's contracts with the natives.⁸

That said, the practice did not match the theory. The islanders, especially the Bandanese, were eager to trade with the English and get rid of the Dutch, who responded to this challenge by strictly enforcing the delivery contracts. The VOC warships and soldiers that had once been used exclusively against the Spanish and Portuguese proved their worth for intimidating indigenous peoples and Englishmen alike. Both William Keeling and David Middleton witnessed the initial stages of the Company's conquest of the Banda Islands. The VOC imposed increasingly onerous contracts on the Bandanese and prevented the English from establishing trading posts at Neyra and Great Banda, the inner core of the archipelago. Undeterred, John Jourdain set sail for Ambon in 1613 and visited the villages of Luhu and Kambelu at the island of Ceram, where he obtained a small quantity of cloves. Yet Jourdain reckoned without Jan Pieterszoon Coen, the future Governor General, whom he met in the Dutch factory at Luhu. Coen upbraided the English commander for interfering "in the countries that were under their protection," and, predictably, refused to countenance the establishment of English trading posts anywhere at Ceram or Ambon. Coen warned him that

⁸ *The Voyage of Sir Henry Middleton to the Moluccas, 1604–1606* ed. William Foster (London: Hakluyt Society, 1943) pp. 21–24, 29–60; William Foster, *England's Quest of Eastern Trade* (London, 1933) pp. 163–172, 198–207, 220, 253–260; Heeres, 'Corpus Diplomaticum Neerlandico-Indicum' (Part I, 1596–1650) pp. 11–14, 23–26, 31–41, 50–53, 58–69, 70–72, 75–78, 92–94, 99–100, 108–115.

whoe soe ever bought any cloves in these countries without their consent, it was soe much stolne from them; and therefore they would prevent it, if by any means they might.

Although Jourdain could not care less about the VOC contracts—"I understood that the countrye was as free for us as for them"—he was forced to trade in great secrecy with the inhabitants of Ceram, out of fear for Dutch interference. As Jourdain noted in his journal, the VOC officials were in the business of

disabling us amonge the countrie people, threatninge them to burne their howses if they gave us any enterteynement, as alsoe in followinge us from place to place, persecutinge us, giveinge us a Judas kisse with faire words when behinde our backes they sell us . . .

The rapid deterioration of Anglo-Dutch relations in the Spice Islands was no secret in Bantam either and provoked street fights between the companies' sailors. When these alarming reports reached England and the United Provinces, the VOC and EIC directors were quick to alert the political authorities.⁹

The Gentlemen XVII first discussed the problem of English interloping in the Spice Islands at their half-yearly meeting in March 1609. While they intended to share their concerns with the Dutch Estates General, nothing came of it, probably due to the Truce negotiations. Instead, it was Sir Ralph Winwood, the English ambassador in The Hague, who lodged an official complaint with Their High Mightinesses on 1 February 1612. Winwood gave various examples of Dutch obstruction of English trade in the Spice Islands and demanded that the VOC respect the freedom of trade and navigation which his compatriots enjoyed by virtue of the law of nations and the Anglo-Dutch alliance. Their High Mightinesses forwarded his speech to the Amsterdam Chamber of the VOC and sent him the Company's reply six weeks later. It denied any wrongdoing on the part of the Company and provided counter examples of English harassment of VOC servants, complete with sworn statements in Dutch. Their High Mightinesses added the pious wish for "a good

⁹ Foster, *England's Quest of Eastern Trade* pp. 198–207; *The Journal of John Jourdain, 1608–1617, Describing His Experiences in Arabia, India, and the Malay Archipelago* William Foster ed. (Cambridge: Hakluyt Society, 1905) p. 260; *Jan Pieterszoon Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. H.T. Colenbrander and W.Ph. Coolhaas 7 vols. (The Hague: Martinus Nijhoff, 1919–1952) Vol. I pp. 10–14.

correspondence and union” between the two companies, but that was all. They did not undertake any further action until they received a petition from the VOC directors, drafted by Grotius, on 28 July. The directors complained that, while the Company incurred extra expenses due to the continuation of the war beyond the Line, the English harvested where they had not sown and actively undercut its delivery contracts in the Spice Islands. The Dutch Estates General reacted favorably to the petition and expressed its support for the Company. Not everything went the directors’ way. By the end of August, their request for five or six fully equipped warships and a subsidy of 100,000 guilders per year for six consecutive years was still under consideration by the Dutch Estates General. Nor could the Gentlemen XVII in good conscience reject Winwood’s proposal for a conference between the EIC and VOC, which the ambassador had submitted to the Dutch Estates General earlier that month. They informed the Dutch Estates General on 27 August that they were willing to send deputies to London in order to straighten out the differences.¹⁰

The Dutch Estates General stipulated, however, that a jurist would have to accompany the VOC deputies. Grotius’ prominent role in drafting the Company’s petition suggests that Oldenbarnevelt may already have had him in mind for the job. A new generation of Dutch regents was introduced to international politics during the

¹⁰ Dutch National Archives, VOC 7290, unfoliated (Gentlemen XVII to Reynier Pauw, Jacob Boreel and other VOC directors in Bergen-op-Zoom, sent from Middelburg, 14 March 1609) Clark, *The Colonial Conferences* pp. 42–49; Eysinga, *The Colonial Conferences* annexes 1, 4–17.

Winwood’s letter of 10/20 March 1612 mentions the possibility of a merger between the two companies, based on the resolution of the Dutch Estates General of 5/15 March 1612. The ambassador was a bit hasty in this respect. The Dutch Estates General had simply expressed a pious wish for “une bonne correspondance et union” between the VOC and EIC. Its resolution of 5/15 March 1612 did not contain any practical proposals in this regard. It is possible, of course, that Winwood received assurances from Oldenbarnevelt in a private conversation. Yet if there was such a conversation, he certainly failed to mention it in his letter to Salisbury.

Thanks to Grotius’ good offices, the Dutch Estates General also decided to scrap article seven of the VOC charter. This article obliged the VOC directors to close the books in 1612, return the Company’s starting capital to the shareholders, and then take new subscriptions. Citing Grotius’ arguments, the directors urged leniency on this point when they petitioned the Dutch Estates General on 28 July 1612. The Dutch Estates General complied with the directors’ request three days later. Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 389–392 and *Resolutiën der Staten-Generaal: Nieuwe Reeks* Vol. I p. 703.

Twelve Years' Truce. Naturally, the aging Advocate of Holland tried to put his own protégés in key positions at home and abroad. The embassies of his son-in-law, Cornelis van der Myle, to Venice in 1609 and France in 1610 are a case in point. Grotius was still an unknown quantity to Winwood, who informed the King on 13/23 March 1613 that three VOC directors—Reynier Pauw, Jacob Boreel and Dirck Meerman—and a jurist, “one Monsr. Grotius,” were ready to depart for London. The English ambassador had nothing to say about Grotius’ political apprenticeship under the watchful eye of Oldenbarnevelt, or his longstanding ideological collaboration with the VOC directors. Yet his authorship of *Mare Liberum* was already a public secret in England, as Grotius found out to his cost.¹¹

Grotius put his mark on the London conference in various ways. He acted as VOC spokesman in meetings with the English negotiators and in separate audiences with the King and his Privy Councilors. More importantly, he was responsible for all memorandums submitted to the other side—the negotiations were conducted almost entirely in writing—and for the final report (*verbael*) presented to the Dutch Estates General afterwards. Although he probably consulted with his fellow commissioners and Noel Caron, the Dutch ambassador in London, the minutes of their discussions have not survived—if these were kept at all. It is difficult, therefore, to determine the role which Caron and the other commissioners played in the negotiations. Judging by Caron’s correspondence with Oldenbarnevelt, the Dutch ambassador seems to have been merely a facilitator, who requested audiences for the commissioners and repeated Grotius’ arguments whenever the East Indies trade came up in his conversations with the King. Caron left all the technical details to the commissioners, whom he urged in private not to trade accusations with the English all the time. As for the VOC directors, they undoubtedly had a greater say in the formulation of Grotius’ memorandums than the Dutch ambassador. They were indispensable when it came to providing detailed background information, for example. In preparation for the conference, Grotius perused the sworn statements of VOC officials, which had been submitted to the Dutch Estates General in March 1612, and an excerpt of letters

¹¹ Barendrecht, *François van Aerssen* pp. 228–259; Eysinga, *The Colonial Conferences* annex 25; Clark, *The Colonial Conferences* pp. 51–53, 70–71.

from Asia, which Dirck Meerman had prepared for the meeting of the Gentlemen XVII in August 1612. Both sets of documents are extant in the Grotius papers at the Dutch National Archives. In addition, it is reasonable to assume that he articulated in his memorandums the directors' objections against what seemed unfair and impracticable aspects of the English proposals. This did not mean, of course, that the directors were indifferent to Grotius' legal arguments. It cannot be emphasized enough that neither they nor the Dutch Estates General ever disavowed his handling of the 1613 conference. Grotius' learned expositions of the law of nations may well have seemed entirely appropriate and, indeed, quite useful to them.¹²

In his exchanges with the English negotiators, Grotius gave free rein to his radical rights and contract theories for a number of reasons. The conference was conducted almost entirely in writing, a format that lent itself to detailed refutations of the other side's position. The English negotiators were essentially a fact-finding commission, which had no mandate to make compromises, but simply reported, again in writing, to the Privy Council. It consisted of EIC directors Sir Thomas Smythe, William Greenewell, Robert Middleton, and Robert Bell; two Doctors of Civil Law, Sir Daniel Dun and Sir Christopher Parkins; and, lastly, the clerk of the Privy Council, Sir Clement Edmondes. The Delft jurist did not have an obvious counterpart among the English negotiators. Sir Christopher Parkins acted as the English spokesman, but proved no match for Grotius. He showed himself poorly informed about the situation in the East Indies at their meeting on 6/16 April 1613, for example. Although Sir Clement Edmondes only had a smattering of Roman law, it was he who drafted the third and last English memorandum of 29 April/9 May 1613. His clever quotations from *Mare Liberum* were completely out of context. Confronted with so much ignorance, Grotius considered it his task to enlighten the English negotiators in three lengthy replies to their memorandums.¹³

¹² Eysinga, *The Colonial Conferences* annexes 28–29, 31, 37, 44–45; Dutch National Archives, Grotius Papers, Supplement I, fol. 227–240, 588–604.

¹³ British Library, Additional Manuscripts 12.498 fol. 1r, 13r–14r; Eysinga, *The Colonial Conferences* annex 33; Clark, *The Colonial Conferences* pp. 63–66, 70–73, 148; B.P. Levack, *The Civil Lawyers in England, 1603–1641: A Political Study* (Oxford: Clarendon Press, 1973) p. 260; R.B. Wernham, *After the Armada: Elizabethan England and the Struggle for Western Europe, 1588–1595* (Oxford: Clarendon Press, 1984) pp. 258–259.

In his monograph on the negotiations, Clark correctly notes that Grotius proceeded in the manner of a lawyer, eager to put his opponents in the wrong. Yet Clark is insufficiently aware of the larger political context of the 1613 conference. Oldenbarnevelt's foreign policy objectives were far more important to its outcome than Grotius' legalistic habits. The Dutch commissioners had their hands tied by the instructions of the Dutch Estates General. They could not grant the EIC any trading privileges in the Spice Islands unless it agreed to join the VOC's crusade against Iberian tyranny, and reimburse the Company for past as well as future expenses. Oldenbarnevelt did not brook any English interference with the Dutch offensive in the East Indies. In his opinion, the standoff in Asia was simply the result of a freerider problem of the EIC's own making. Oldenbarnevelt expressed himself in no uncertain terms in his letter of 5 May 1613, and explained to the Dutch commissioners that

the English have greatly benefited and still benefit from the fact that they could confine themselves to peaceful trading, while we were engaged in warlike activities as well as trade and kept the Spanish and Portuguese busy at enormous expense. This is the reason why the English have freely traded everywhere, something that otherwise might never have been permitted, nor may be permitted in the future.

The Advocate of Holland made the mistake of presuming that the EIC would ultimately come round to his point of view. He assured the commissioners that the English usually tried to drive hard bargains while having the home advantage, but that "they allowed themselves to be told otherwise in the end." When the EIC refused to play along, however, the whole conference became an exercise in political damage control. As it happened, the intricacies of Grotius' rights and contract theory ensured a decent prolongation of the conference and averted a sudden and acrimonious break-up, which could have harmed Anglo-Dutch relations in Europe.¹⁴

¹⁴ Clark, *The Colonial Conferences* pp. 106, 50, 62, 96–97, 149–151; Eysinga, *The Colonial Conferences* annexes 18 and 22; *Briefwisseling van Hugo Grotius* Vol. XVII pp. 103–104.

Oldenbarnevelt himself had first hand experience of negotiating with English monarchs. Oldenbarnevelt had gone over to London in 1596 to persuade Elizabeth I to join the Triple Alliance and again in 1604 to congratulate James I upon his accession to the English throne, as well as to discuss with him the wider ramifications of his peace with Spain.

In his replies to the English memorandums, Grotius justified the exclusion of the EIC from the Spice Islands by exploring the limits of freedom of trade and navigation. In part, this reflected a changing situation on the ground. The VOC had become an established power in the East Indies and acted as such. Gone were the days of mere interloping in *Asia Portuguesa*. The VOC used the Twelve Years' Truce to consolidate its gains in the Spice Islands and ward off new European competitors. Grotius realized early on that the Company's changing role might discredit its claim to be a defender of freedom of trade and navigation. His uneasiness already shone through in a draft petition addressed to the French ambassador in The Hague. The VOC directors had commissioned it in July 1611 for the express purpose of "preventing a French voyage to the East Indies." The draft petition is still extant in the Grotius Papers at the Dutch National Archives. It lists various reasons why the Queen of France, who ruled on behalf of Louis XIII, should forego the establishment of a French East India Company. Significantly, Grotius felt obliged to emphasize that freedom of trade and navigation was not at stake here. Even without a French East India Company, the Queen's subjects might still be able to participate in the lucrative spice trade by investing in the VOC, which counted shareholders from many European countries. Grotius must have realized the weakness of this argument. The VOC had not issued any new shares since 1602. Its directors continued to buy out small investors and consolidate their own stockholdings during the Twelve Years' Truce. At the 1613 conference, Grotius had no choice but to try a different approach in order to reconcile the precepts of the natural law with an incipient Dutch monopoly of the spice trade.¹⁵

In his replies to the English memorandums, Grotius denied that the EIC was barred from navigating and trading beyond the Line,

¹⁵ Dutch National Archives, Grotius Papers, Supplement I, fol. 397–402 (draft) and 353–358 (fair copy); Dillen, *Het oudste aandeelhoudersregister* pp. 55–96.

Grotius' draft memorandum, along with the fair copy, is listed in Smelt's inventory of the Grotius Papers at the Dutch National Archives. Smelt concludes that the memorandum was written for the embassy of Walraven van Brederode, Cornelis van der Myle and Jacques de Malderée, who were received at the French court in late April 1610. The minutes of the meetings of the Gentlemen XVII prove her wrong, however. Compare Dutch National Archives, VOC 100, unfoliated (minutes of 4 July 1611) and Smelt, 'Beschrijving eener verzameling papieren afkomstig van Hugo de Groot', pp. 83–84.

or even from visiting the Spice Islands. The Dutch case had nothing in common with the grandiose and unjust claims of the Portuguese. Yet the VOC did object to English attempts to undermine its contracts with the indigenous peoples, and reserved the right to enforce these contracts by whatever means possible. Freedom of trade and navigation was not indefinite, but circumscribed by contracts. A third party could not purchase something that had already been sold or promised to somebody else. Freedom of trade was, quite literally, the freedom to make contracts: it ceased the moment two parties expressed their wills (*facultates*) and put each other under an obligation to sell and buy, either now or in the future. Freedom of trade did not resume until the transfer of property had been completed in its entirety, unless, of course, both parties agreed to release each other of their respective obligations. Needless to say, the VOC had no intention of changing the terms of the contracts in the Spice Islands. Its strong military and naval presence there, which was already a decade old by the time of the 1613 conference, had earned the Company the perpetual right of preemption, in return for protecting the lives and possessions of the inhabitants. The English could freely purchase nutmeg, mace and cloves at Company auctions in the Republic, but not in the Spice Islands.¹⁶

It should be emphasized that Grotius never made a purely legal case for the Company's monopoly of trade in the Spice Islands. Equally important were notions of fairness and practicability. Grotius repeated, albeit in a slightly different form, his one-time objections to the founding of a French East India Company. Back in July 1611, he had already argued that French competition in the spice trade would reduce the VOC's profit margins and thus endanger its offensive against the Spanish and Portuguese, who, as a result, might regain absolute control of the East Indies. Grotius agreed with the VOC directors that English trade in the East Indies would have been impossible without their vigorous naval and military campaigns. Equity demanded that the EIC leave the spoils of war to the VOC and refrain from undercutting its trade in cloves, nutmeg and mace, which was its major source of income and hence critical to the war effort. Nor could Grotius endorse the English concept of 'free trade',

¹⁶ Eysinga, *The Colonial Conferences* annexes 35, 37, 39, 40; Clark, *The Colonial Conferences* pp. 67–74.

which amounted to little more than an unregulated free-for-all and was totally impractical. Who would take responsibility for defending the natives against the Spanish and Portuguese if all and sundry traded in the Spice Islands? Grotius found it hard to imagine that a European competitor would relieve the VOC of the heavy financial burden represented by the various garrisons on these islands and the great number of warships stationed there. In other words, the freedom of trade and navigation that the VOC defended so valiantly had nothing in common with the free ride demanded by the EIC.¹⁷

Predictably, the Anglo-Dutch colonial conference of 1613 ended without an agreement between the two sides. Yet James I made a last-ditch attempt to mediate when the Dutch commissioners came to take their leave of him on 11/21 May 1613. All parties involved had been fully aware of the King's pivotal role right from the start. At the commissioners' first audience, Grotius had even tried to forestall negotiations altogether and entreated James to decide the matter then and there. The King had refused his request, but promised to mediate in person if necessary. Both sides had kept this promise in mind throughout the negotiations. When, on 29 April/9 May 1613, Edmondes peremptorily declared the written part of the conference to be over, Grotius decided to reply to the third English memorandum anyway and address it to the King himself, fearing that the English negotiators might send an unfavorable report to the Privy Council. Yet the EIC directors were not easily outwitted. Sir Thomas Smythe used the Dutch commissioners' valedictory audience to reinforce EIC demands for free trade in the Spice Islands, in the expectation that James would take the bait and force a decision. The Dutch commissioners stood their ground, however, and persuaded James to accept Caron's proposal to let negotiations continue in the Low Countries. The King promised to send a delegation to The Hague sometime soon and meanwhile urged the EIC not to meddle with the Spice Islands "in order to avert the inconveniences which might otherwise be expected." The English negotiators were unhappy with James' concession and tried to get their revenge through the Privy Council. If it had not been for Caron's intercession, the Privy Council would have provided the commis-

¹⁷ *Ibidem* and Dutch National Archives, Grotius Papers, Supplement I, fol. 399v–402r.

sioners with a letter for the Dutch Estates General that was extremely critical of their unwillingness to compromise and their “unreasonable” justifications of alleged VOC misdeeds. Still, the conference had not been a failure, certainly not from the Dutch perspective. The commissioners could inform the Dutch Estates General that an open breach with the King had been avoided and that negotiations would resume in The Hague before long. This did not happen, however, for various reasons.¹⁸

The loss of momentum right after the 1613 conference was perhaps inevitable given the different interests of the parties involved. The EIC was dissatisfied with the negotiations in London and reluctant to send any deputies to The Hague. After all, the VOC had rejected its demands for free trade in the Spice Islands and offered no workable alternative whatsoever. There was a sense of betrayal among the English negotiators. Winwood’s dispatches prior to the conference suggested that Dutch politicians were seriously considering a merger of the two companies, analogous to the establishment of the VOC in 1602. Yet the Company spokesman, an inexhaustible debater in every other way, had been completely silent on this point, both in his verbal and written communications with the English negotiators. If these disappointments were not sufficient reason for the EIC to drag its feet, there seemed little need for a resumption of the negotiations the following year, when the EIC received fewer reports about Dutch obstruction of its trade and enjoyed larger profits than usual. It seemed like the EIC could manage just fine on its own. Nor did King James exert any pressure on the company directors until the late autumn of 1614. The monarch had been his own Secretary of State since the death of Salisbury in 1612, causing a general slow-down in government business. It was only on 29 March/8 April 1614 that Ralph Winwood, former English ambassador in The Hague, was appointed Secretary of State. The East Indies trade had never been the King’s first concern in foreign affairs either. Instead, he was preoccupied with the second Jülich-Cleves crisis, which threatened the balance of power in the Holy Roman Empire. There was a lack of urgency on the Dutch side as well. Like James, the Dutch Estates General was engrossed by the succession crisis in the duchy

¹⁸ Eysinga, *The Colonial Conferences* annexes 43–46; Clark, *The Colonial Conferences* pp. 61–62, 74–78; British Library, Additional Manuscripts 12.498 fol. 13r–14r, 15v.

of Jülich-Cleves. The standoff between its own troops and the Archdukes' forces on the country's eastern border endangered the Twelve Years' Truce. In addition, the Dutch Estates General had to come to terms with the Truce's failure in the East Indies. Retrospective approval was given for the continuation of the war there in March 1611. The Dutch Estates General voted the VOC four subsidies of 125,000 guilders per annum in December 1613, and considered a proposal from the Estates of Holland for three subsidies of 300,000 guilders per annum in December 1614. The VOC directors, for that matter, believed that increased spending on military and naval operations would be sufficient to oust all European competitors from the Spice Islands. Negotiations were just as low a priority for the VOC directors as for their London competitors.¹⁹

The resurgence of Spanish power in Europe made a follow-up conference between the EIC and VOC inevitable. Since France had gravitated towards Spain after the death of Henry IV, the Dutch Estates General could not afford to alienate England, the other guarantor of the Twelve Years' Truce, certainly not in the light of the unstable political and military situation in the Holy Roman Empire. In the autumn of 1614, the Dutch ambassador in London reminded James of his promise to send over English negotiators and persuaded him to put pressure on the EIC directors. When the latter objected to crossing the North Sea in winter, the King lost his patience with them and assured Caron that "unless they get themselves ready for it in the winter, I will hear no more about it from them in the summer." The English negotiators—Sir Clement Edmondson, Sir Thomas Smythe, Robert Middleton and Maurice Abbot—arrived in Flushing on 15/25 January 1615, and reached The Hague five days later. Informed by the Dutch Estates General of their arrival, the Gentlemen XVII and the individual VOC Chambers nominated four commis-

¹⁹ Eysinga, *The Colonial Conferences* annexes 39, 46–4; *Johan van Oldenbarnevelt: Bescheiden betreffende zijn staatkundig beleid en zijn familie* S.P. Haak ed. (The Hague: Martinus Nijhoff, 1934–1967) Vol. II: 1602–1613 (RGP 108) pp. 583–585; Dutch National Archives, SG 5886, *Lias Engeland*, unfoliated (Caron to the Dutch Estates General, 10/20 February 1614); J.C. Grayson, 'From Protectorate to Partnership' pp. 142–173; Dutch National Archives, VOC 100, unfoliated (minutes of the meeting of the Gentlemen XVII, 18 Aug. 1612); *Resolutiën der Staten-Generaal: Nieuwe Reeks, 1610–1679* ed. A.Th. van Deursen (The Hague: Martinus Nijhoff, 1984) Tweede Deel, 1613–1616 (RGP 151) pp. 173–175, 368–369; Clark, *The Colonial Conferences* pp. 82–95.

sioners for the conference, notably Dirck van Os of Amsterdam, Jacob Boreel of Middelburg, Dirck Meerman of Delft, and Albert Franszoon Sonck of Hoorn. The VOC commissioners were joined by two members of the Dutch Estates General, Dr. Dirck Bass and Albert Joachimi, representatives of Holland and Zeeland, respectively. At the request of Their High Mightinesses, the Pensionary of Rotterdam was added to the negotiating team as well. He was still Holland's foremost expert on the law of nations and its application to the Indies trade. His services had stood the VOC directors and Their High Mightinesses in good stead at the previous conference. The negotiations were resumed on 6/16 February 1615, Grotius once again acting as the Dutch spokesman.²⁰

Both sides must have had a sense of *déjà vu* when it was agreed to communicate primarily in writing, just as at the London conference. This did not bode well for the negotiations, but worse was to come. The English negotiators took the initiative by submitting a summary of the proceedings in 1613, written in a thoroughly partisan manner. It simply repeated the familiar English demands for free trade in the Spice Islands, while curtly dismissing each and every objection that Grotius had raised at the 1613 conference. The English spokesman Clement Edmondès must have known that such a provocation could only result in another round of legal sparring. Yet he probably did not foresee that it would involve no fewer than six English memorandums and an equal number of Dutch replies. Needless to say, it was Grotius who had the better of the exchange. Edmondès' knowledge of Roman law was so patchy that at one point he characterized valid contracts as conforming to the rule "I give so that you give," as opposed to Grotius' "I give so that you do." He evidently did not realize that both rules were taken from the same Digest title. According to Roman law, the principles of *do ut des* and *do ut facias* are compatible definitions of contractual relationships.²¹

²⁰ Dutch National Archives, SG 5886, *Lias Engeland*, unfoliated (Caron to the Dutch Estates General, 10 Feb. 1614, o.s.); *Johan van Oldenbarnevelt: Bescheiden betreffende zijn staatkundig beleid en zijn familie* A.J. Veenendaal ed. (The Hague: Martinus Nijhoff, 1967) Vol. III: 1614–1620 (RGP 121) pp. 65–66; Eysinga, *The Colonial Conferences* p. 161 and annexes 49–63, 68–69, 71; Clark, *The Colonial Conferences* pp. 90–99.

²¹ Clark, *The Colonial Conferences* pp. 99–101; Eysinga, *The Colonial Conferences* annex 72; *The Digest of Justinian* ed. Alan Watson 2 vols. (Philadelphia: University of Pennsylvania Press, 1985; revised edition, 1998) 19:5:5.

Although both sides repeated arguments from the London conference, Edmondes did provide some new information about Dutch and English trade in Europe and the East Indies, which prompted Grotius to explain himself in even greater detail than before. Although he disputed Edmondes' account of the facts, he labored hard to bring his theory in line with practice. As a lawyer, he knew very well that "rights arise out of fact" (*jura ex facto oriuntur*). Rhetorical flourishes like these notwithstanding, he largely stuck to his guns. The author of *De Jure Praedae* had no intention of changing his ideas, first formulated ten years earlier. This can be illustrated by his pronouncements on three related issues: the incompatibility of prescription and freedom of trade and navigation, the difference between simple and armed trade, and the enforcement of rights in the absence of a neutral and effective judge.²²

In his memorandums, Edmondes brought up the example of English trade with Muscovy in the second half of the sixteenth century, which, in his view, offered striking parallels to the current situation in the Spice Islands. If the VOC's contracts with the natives justified the EIC's exclusion from trade there, then the Dutch should equally be banned from the Muscovy trade. According to Edmondes, his compatriots had a superior title to the Muscovy trade based on contracts and prescription. They had not just signed a treaty with the Duke of Muscovy, but also traded in various White Sea ports long before the Dutch arrived there. Grotius did not consider this a valid comparison. He replied that English trading agreements with the Duke of Muscovy were very different from Dutch contracts with Asian peoples and princes. The VOC expended huge sums on the defense of the natives' lives and goods, which justified the special nature of its reward. Edmondes was also misinformed about the Muscovy trade. Grotius pointed out that the Dutch had been the first to establish a trading post at Archangel, not the English. Ultimately, the prescription argument was neither here nor there. Grotius argued in classical *Mare Liberum* vein that prescription could not grant the English a monopoly of the Muscovy trade, or diminish the commercial rights of the Dutch in any way. Freedom of trade and navigation was not something gained or lost by the mere passage of

²² Eysinga, *The Colonial Conferences* p. 214; British Library, Additional Manuscripts 12.498 fol. 36r.

time. A merchant could simply express the *will* (*facultas*) to make use of this freedom or not. Grotius had argued the same in *Mare Liberum*, of course:

[When] other nations neglected to contract with the Indians they are not supposed to have done it for the Portugals' sakes, but because they thought it was expedient for them so to do, which hindereth not that they should be less able (when profit shall persuade) to do that which before they did not. For that is a most certain rule delivered by the doctors that in those things which stand in free will and mere faculty, so that by themselves they work an act of that faculty only and not a new right, a thousand years are nothing worth, neither by title of prescription nor custom, which Vasquius teacheth proceedeth both affirmatively and negatively. For I am neither compelled to do that which I did freely nor to omit that which I did not.²³

Nor could Grotius emphasize enough that there was a real distinction between simple trade as practiced by the EIC and armed trade as pursued by the VOC. English trade with the natives consisted of a series of distinct commercial transactions, whereby goods or coins were exchanged for pepper, for example. Yet the VOC had a very different relationship with the inhabitants of the Spice Islands. The contracts were more like treaties of alliance, which obliged the VOC to protect the lives and possessions of the islanders in perpetuity. Rewarding the VOC in the only way they could, the islanders had granted it an exclusive right of preemption, which applied to both present and future harvests. By virtue of these contracts, they had certainly alienated their sovereign rights in the economic sphere. Yet it was a small price to pay for the self-government that they enjoyed in every other respect. Grotius strenuously denied that the VOC was a territorial ruler in the Moluccas—in his view, only the Sultans of Ternate and Tidore qualified as such—or that it could impose any taxes there in order to fund the war effort, as proposed by the

²³ Eysinga, *The Colonial Conferences*, annexes 74–77, 93; Clark, *The Colonial Conferences* pp. 101–113; Grotius, *The Free Sea* Armitage ed. p. 53.

As Annabel Brett shows in her *Liberty, Right and Nature*, Grotius' equation of right and will was essentially derived from the Spanish juriconsult Fernando Vázquez de Menchaca, who, in turn, extrapolated from a medieval debate on inheritance law. The central question of that debate had been whether a testator was at liberty to dispose of his goods in any way he saw fit. See Annabel S. Brett, *Liberty, Right and Nature: Individual Rights in Later Scholastic Thought* (Cambridge: Cambridge UP, 1997) pp. 165–204.

English negotiators. There is more to Grotius' denial than meets the eye. Should the Dutch claim full sovereignty over the Spice Islands—as they did at Banda Neyra and Ambon's Ley-Timor peninsula—they would have to grant trading privileges to French and English merchants for the sake of their countries' longstanding alliance and friendship. In that case, the VOC would have to regulate trade in its territories like any other sovereign, which meant that it would have to give up its incipient monopoly of the spice trade and concentrate on collecting customs duties and port dues instead. Neither Grotius nor the VOC directors considered this a viable option. The latter believed, quite correctly, that they could reap far greater profits from a monopoly of the spice trade than from tax collection. Hence Grotius had to distinguish carefully between simple and armed trade, emphasize the VOC's treaty rights and obligations, and avoid any suggestion that these rights and obligations might amount, in fact, to a full-blown territorial sovereignty in the Spice Islands. It was much more convenient and profitable for the VOC to maintain the fiction that indigenous rulers were still in charge in the Spice Islands and that they paid the Company for its services by ceding it an exclusive right to the mace, nutmeg and cloves grown there.²⁴

The Company's contractual relationship with the natives was crucial to Grotius' efforts to show the EIC the error of its way and explain away some of the less agreeable aspects of the Dutch presence in Asia. Although everyone was free to visit the Spice Islands, Grotius claimed that EIC merchants had abetted the 'crimes' of the inhabitants in their attempt to trade there. Sorely tempted by the higher prices offered by the English, some islanders had sold spices to them and broken their contracts with the VOC, which violated the natural law principle of *pacta sunt servanda* (treaties must be honored). Grotius curtly dismissed the attenuating circumstances that the English negotiators brought to his attention. The islanders' flagrant transgression of the natural law did not prove that VOC contracts had been invalid in the first place. Nor were the Banda Islands in the throes of a nasty civil war, pitching pro- and anti-Dutch factions

²⁴ Eysinga, *The Colonial Conferences* Vol. XV, annexes 74–77, 93; Clark, *The Colonial Conferences* pp. 101–113; Els Jacobs, *Koopman in Azië: De handel van de Verenigde Oost-Indische Compagnie tijdens de 18e eeuw* (Zutphen: Walburg Pers, 2000) pp. 19–72.

against each other. Grotius argued that most Bandanese were perfectly happy with the treaties, and had confirmed them many, many times. Hence the VOC had every right to punish the few rebel rousers who continued to besiege its fortresses at Neyra and who might well be responsible for the murder of Pieter Willemszoon Verhoef in May 1609, and, of course, for the ongoing surreptitious trade with the English. Nor was Grotius bothered by the fact that escape clauses were completely lacking in the VOC's contracts with the natives. He argued that the treaties left the islanders *sui juris* in almost every respect. They could have been asked to pay a much higher price for VOC's military and naval protection. The history of the Classical World afforded plenty of examples of individuals, and even whole peoples, who had entered into outright slavery in order to, literally, save their own skins. Grotius pointed out, quite correctly, that such arrangements were perfectly acceptable under Roman law, particularly the law of nations. The inhabitants of the Spice Islands should consider themselves privileged by comparison.²⁵

In Grotius' view, the restrictive nature of the contracts did not prevent the VOC from honoring its commitment to freedom of trade and navigation. True, the VOC spokesman could not approve of Clement Edmondes' understanding of freedom of trade and navigation, a pristine collective liberty that was never extinguished *in toto*. Instead, he lodged freedom of trade and navigation in subjective right and the will of a private person, which could be exercised or not. He argued that rights-bearing individuals, including a merchant company (*persona ficta*), must take responsibility for its enforcement and that it was therefore perfectly legal for VOC commanders to act as judges in their own cause, something which puzzled the English negotiators exceedingly. Nor did the author of *De Jure Praedae* believe that the VOC's treatment of English interlopers should be fundamentally different from its dealing with the Spanish and Portuguese, not in legal terms, at least. His compatriots were entitled to enforce their own right in the Spice Islands against all transgressors of the natural law. Trade and commerce would simply be impossible if a seller were free to sell the same goods twice or otherwise alter the terms of a contract without the buyer's consent. Freedom of trade

²⁵ British Library, Additional Manuscripts 12.498 fol. 24r-32v; Eysinga, *The Colonial Conferences* annexes 74-77, 93; Clark, *The Colonial Conferences* pp. 101-113.

and navigation required that both the native sellers and their Dutch customers honor the delivery contracts. It should be considered “the execution of natural liberty,” as Grotius noted in a face-to-face meeting with the English negotiators on 7 April 1615.²⁶

Although his English interlocutors could agree with this, they still doubted the validity of contracts that guaranteed the VOC’s global monopoly of the spice trade, which, in their view, extinguished a primitive and communal liberty of mankind. More importantly, they were mystified by Grotius’ views on the enforcement of natural law. In their fourth memorandum, they asked him whether he really wished VOC commanders to take up arms against their English counterparts on the basis of mere “conceptions.” Grotius could not possibly mean to suggest that VOC commanders must interpret and act upon the natural law all by themselves, without reference to properly constituted authorities like the Dutch Admiralty Board or the Dutch Estates General. In his answer, Grotius did not go down the Hobbesian road of reducing natural law to subjective perceptions *tout court*. He replied that VOC commanders were in the business of executing their “right,” based on natural reason, no mere “conceptions.” It was still an objective sense of justice, in principle shared by every human being, which merited the use of force on the Company’s behalf. If Grotius thought otherwise, he could hardly have endorsed the concept of a ‘just war’—essentially a *judicial* verdict, though executed by other means—as enthusiastically as he did.²⁷

That said, the notion of subjective rights was never far from his mind. When Edmondès complained about a Dutch double standard in the Spice Islands, Grotius countered the charge by arguing that the VOC’s invasion of Tidore, unlike English interloping in the Banda Islands, was based on the right of self-defense. VOC com-

²⁶ Ibidem and Eysinga, *The Colonial Conferences* p. 252.

²⁷ British Library, Additional Manuscripts 12.498 fol. 30v, 33v and Harleian Mss. 147 fol. 63r.

Grotius’ concept of the just war and his understanding of objective and subjective rights are discussed in Annabel S. Brett, ‘Natural Right and Civil Community: The Civil Philosophy of Hugo Grotius’, *Historical Journal* 45 (2002) pp. 31–51; Peter Haggemacher, *Grotius et la doctrine de la guerre juste* (Paris: PUF, 1983), *passim*; Knud Haakonssen, ‘Hugo Grotius and the history of political thought’, *Political Theory* 13 (1985) pp. 239–265; Tuck, *Natural Rights Theories* pp. 58–81; Tuck, *Philosophy and Government* pp. 154–201; Tuck, *The Rights of War and Peace* pp. 78–108; Tully, *A Discourse on Property* pp. 68–72, 80–85, 90, 114, 168; Tully, *An Approach to Political Philosophy* pp. 102–103, 107–109, 115–116.

manders did not engage in hostilities with the Sultan of Tidore because of the latter's trade agreement with the Spanish governor in the Moluccas, which, Grotius admitted, could never be a proper *casus belli*. Instead, they were merely defending their Ternatan allies against attack, admittedly by means of preemptive strikes. The Sultan of Tidore happened to be an ally of the Spanish governor, not just a trading partner. Hence the Tidorese ruler was implicated in the Spanish governor's refusal to observe the Twelve Years' Truce. Grotius' insistence on the right of self-defense was entirely consistent with his argument in *De Jure Praedae*, which defines the preservation of one's own life and limbs as a categorical imperative of the natural law. His brief reference to this subjective right *par excellence*, in combination with his usage of the word *jus*, which could mean both (objective) justice and (subjective) right, suggests that his thinking on natural law and natural rights was an unstable mixture at best even as late as 1615.²⁸

The English reception of Grotius' natural law and natural rights theories was not what the author of *Mare Liberum* might have hoped for. His learned expositions failed to engage the attention of the English negotiators. The most radical aspects of his thinking literally fell on deaf ears. In their letters to James I, the English negotiators made no mention of his controversial suggestion that VOC commanders could be judge and executioner in their own cause, and enforce the natural law with all possible means. Instead, their main complaint was the endless recriminations that characterized the written

²⁸ Eysinga, *The Colonial Conferences* pp. 198, 205–206; Grotius, *Commentary on the Law of Prize and Booty* Vol. I p. 10.

The interrelationship of objective justice and subjective rights in Grotius' thought also surfaced on other occasions during the conference in The Hague. At the meeting with the English negotiators on 7 April 1615, Grotius distinguished between "trade for profit" and "natural trade," regulated by nature and the law of nations, and strictly limited to "the necessities of life." If physical survival could not be assured in any other way, human beings were entitled to take "the necessities of life," without regard for property law, contracts etc. Under such circumstances, everything reverted to the primitive and communal liberty of mankind that Clement Edmondes lauded in his memorandums. Yet the Anglo-Dutch colonial conferences did not have anything to do with "natural trade" in Grotius' view. The VOC directors had always been willing to sell spices at their public auctions in the United Provinces to whoever was in need of them. The English did not suffer any deprivation on that count. Grotius argued that the case under discussion must be "commerce for profit" and that it was simply a matter of "natural equity" to reward the merchant company which had invested the most. See Eysinga, *The Colonial Conferences* p. 252 and Grotius, *The Free Sea Armitage* ed. pp. xix, 86.

exchanges between the two sides. The English negotiators were desperate for face-to-face talks, which, they hoped, would be far more conducive to reaching a compromise. They feared, as well they might, that there would be “no end of arguing” otherwise.²⁹

Although his rights theories made no lasting impression, Grotius was more persuasive when he argued that a sustained offensive against the Spanish and Portuguese was a *sine qua non* for Dutch and English trade in the East Indies. The English negotiators admitted as much in their letters to James I. It helped, of course, that Oldenbarnevelt had made the exact same point in separate meetings with them and Sir Henry Wotton, the English ambassador in The Hague. Wearing out by Grotius’ interminable replies to their six memorandums, they were eager to enter into real negotiations and establish some sort of cooperation between the two companies. At this point, they may have received some fairly detailed figures on the VOC’s military expenditures. The Grotius papers at the Dutch National Archives contain twenty folios of financial calculations on precisely this issue, dating back to the first VOC voyage under Steven van der Haghen. The English negotiators submitted a five-point proposal to their Dutch counterparts on 18/28 April 1615, which, they believed, satisfied the latter’s desire for a “*vive et juste deffence*” in the East Indies. The proposal called for

- 1) mutual friendly treatment
- 2) mutual defense against attack on either nation or their friends when Dutch and English ships were sailing in company
- 3) opening up of trade with the Chinese and any other Asian people which refused to permit it
- 4) the fortifying of such places as the two trading companies should judge convenient, as long as the King of Spain was not in actual possession
- 5) a reasonable tax on the commodities of the Moluccas in order to maintain the common utility there

This was not sufficient for the VOC directors, who expected their London counterparts to make a much bigger commitment to the war effort in the East Indies. Yet the English negotiators could not make any further concessions. James I had written to them on 28 March/

²⁹ National Archives of the United Kingdom, SP 84/71 fol. 44r–v, 64v–65r; British Library, Harleian Mss. 147 f. 62v.

7 April 1615, and enjoined them not to agree to anything that might jeopardize his peace with Spain.³⁰

While the King saw the need for a commercial partnership between the VOC and EIC, he was reluctant to commit himself to anything that might harm Anglo-Spanish relations. This much is clear from the Privy Council's instructions for the English envoys. The Privy Council warned them "not to assent or agree to any thing propounded or offered unto you that shall be prejudicial to the Treatie of Peace made with our brother the kinge of Spain." This restriction was uppermost in Edmondes' mind when he reported to the Privy Council about the developments in The Hague. His letter to the Earl of Somerset of 4/14 February 1615 is a case in point. Even before the official start of the conference, Dutch politicians had intimated to him that the English company should "joyne with them to make warr upon the Spaniarde in the Indies." He realized, however, that such suggestions were "directly contrary to our instructions to meddle with anythinge tendinge to the breach of peace with Spaine." Nor did the envoys dare to propose a trade-sharing agreement and defensive alliance between the two companies without the King's explicit permission. The Privy Council replied to their letter on 28 March/7 April. While James approved of their proposal, he also wished them "to have care of the observacion of the treaty betwene his Ma.tie and the king of Spaine." This ambiguous response left little room for manoeuvre. When the VOC commissioners rejected the English offer as insufficient, the envoys had no choice but to end the negotiations and return to London.³¹

Yet the English envoys could not avoid a last harangue by Grotius on 19/29 April 1615. The Delft jurist objected to the impracticability of points two, four and five of their proposal for a trade-sharing agreement and defensive alliance between the VOC and EIC. It was all very well for the companies' ships to assist one another when they happened to meet in Asian waters, but this hardly amounted to a "*vive et juste deffence*." If the English were serious about contesting

³⁰ Dutch National Archives, Grotius Papers, Supplement I, fol. 566–587; National Archives of the United Kingdom, SP84/71 fol. 78r–v; British Library, Harleian Mss. 147, 2v–3r; Eysinga, *The Colonial Conferences* annexes 84, 93; Clark, *The Colonial Conferences* pp. 98–118, 149–151.

³¹ Clark, *The Colonial Conferences* pp. 97 and 150; National Archives of the United Kingdom, SP84/71 fol. 19v, 78v.

the Spanish and Portuguese claims to the Spice Islands, then the protection of native allies should not be dependent on chance meetings between the companies' ships, nor should it exclude preemptive strikes against the enemy, such as attacks on Malacca and Manila. Grotius also objected to point four of the English proposal. It was hardly worth while to engage in hostilities in the Moluccas, let alone in the rest of the East Indies, if both companies would voluntarily limit themselves to fortifying places that were not in the actual possession of Philip III of Spain and Portugal. The VOC had successfully rolled back the Iberian conquests in the East Indies precisely because it had been willing and able to capture the Portuguese castle at Ambon in a just war, as well as the Spanish strongholds at Tidore. As for the fifth point of the English proposal, Grotius feared that a duty on the spice trade might not provide sufficient, or even continual, funding for the defense of the Spice Islands. Did he remember the near-bankruptcy of the Dutch Admiralty Board at the turn of the century, which had been exacerbated by a disastrous decline in customs receipts, largely as a result of the trade embargoes of Philip III and the Archdukes? He could point out, with some justification, that the Spice Islands needed protection against the Spanish and Portuguese at all times, not just when the trade in nutmeg, mace and cloves was booming. He then made a last-ditch attempt to persuade the English negotiators to assent to a full-fledged merger of the two companies, citing the example of the VOC's establishment in 1602. His English interlocutors politely declined the offer: they had nothing to add to their proposal. The negotiations were effectively over.³²

The English negotiators had not heard the last of Grotius. He was deeply involved in a Dutch diplomatic offensive in London in the direct aftermath of the conference. His papers at the Dutch National Archives include the correspondence with VOC lawyer Tobias de Coene, for example. Coene was dispatched to England in May 1615 in order to assist Noel Caron, who had the thankless task of explaining the conference's failure to the King. Grotius wrote to De Coene at length about the proceedings in The Hague and provided him with plenty of political and legal arguments to justify

³² Eysinga, *The Colonial Conferences* pp. 259–268; Clark, *The Colonial Conferences* pp. 117–118.

the Dutch position. De Coene, in turn, briefed the Dutch ambassador, who was happy to oblige Grotius and the VOC directors. Caron managed to convince the King that he had been misinformed by Clement Edmondès and the EIC directors, and that a merger of the VOC and EIC did not necessitate a declaration of war on Spain. It turned out to be a Pyrrhic victory. The EIC directors continued to “make many difficulties,” Caron wrote to the Dutch Estates General on 16/26 July 1615. The London merchants had no taste for a “*vive et juste deffence*” of indigenous peoples. They rejected new Dutch proposals for a merger of the two companies at their shareholders meeting in August 1615.³³

The Gentlemen XVII still tried to find a solution. They sent deputies to The Hague in the middle of October 1615 for consultations with Oldenbarnevelt and Grotius. The latter had received copies of their proposal for a merger of the two companies in late September, together with the English rejection and a request for guidance from the Amsterdam directors. Their esteem for Grotius is clear from De Coene’s letter of 13 October 1615. Grotius was asked to travel to The Hague in order to meet the deputies of the Gentlemen XVII, by which he could render the Company “a singular service.” The directors valued his advice highly and, De Coene assured him, would not fail “to express their gratitude for these and other good offices done by Your Honor.” Unfortunately, there are no minutes of the actual meeting between the VOC deputies and Oldenbarnevelt and Grotius. The meeting, if it ever took place, must have been rather unfruitful. The Dutch ambassador in London received instructions to resume his efforts to bring about an agreement between the two companies. Yet Caron was not provided with any new arguments or incentives that could make the VOC proposals more acceptable to the EIC. The Gentlemen XVII had, in fact, written to Governor General Gerard Reynst on 30 April 1615 and given him permission to use violence, if necessary, to keep the

³³ Eysinga, *The Colonial Conferences* annexes 91–92; Dutch National Archives, SG 5886, *Lias Engeland*, unfoliated (Caron to the Dutch Estates General, 20/30 May, 21 May/1 June, and 16/26 July 1615); *Johan van Oldenbarnevelt: Bescheiden Veenendaal* ed. Vol. III: 1614–1620 (RGP 121) pp. 113–116; *Briefwisseling van Hugo Grotius* Vol. I pp. 392–393; British Library, India Office, C.O. 77, Vol. I, no. 48; *Calendar of State Papers Colonial* Vol. II (1513–1616) no. 999, 1014; Clark, *The Colonial Conferences* pp. 119–122.

English out of the Spice Islands. Nor did they change tack after their unrecorded meeting with Oldenbarnevelt and Grotius. Disappointed at the dwindling prospects of an agreement with the EIC, the VOC directors repeated their order of 30 April in a letter to Steven van der Haghen, Councilor of the Indies, which was sent seven months later. Things apparently needed to become much worse between the two companies before they got any better.³⁴

The two companies only reached an agreement at a follow-up conference in London four years later. Grotius was not present at these negotiations. This was not by choice. The Arminian controversy that engulfed the United Provinces during the Twelve Years' Truce claimed both Oldenbarnevelt and Grotius as its victims. The religious troubles must have made it increasingly difficult for the Pensionary of Rotterdam to maintain good relations with the VOC directors, quite a few of whom belonged to the camp of Prince Maurice and the orthodox Calvinists. After the Stadtholder's *coup d'état* of August 1618, Amsterdam director Reynier Pauw even served on the delegate court of the Dutch Estates General that found Grotius and Oldenbarnevelt guilty of high treason. The latter was publicly executed in The Hague, while the former was imprisoned for life at Loevestein Castle. In the run-up to the trial, Grotius still believed that he could curry favor with the new regime because of his expertise on the Indies trade. He wrote to Prince Maurice on 13 September 1618 in order to, among other things, offer his services for a new embassy to England, which, it was expected, would straiten out the differences between the VOC and EIC. The Stadtholder did not reply to his letter. Yet it was clear that neither Prince Maurice nor the English monarch would suffer a man so closely identified with Oldenbarnevelt to serve as a VOC spokesman again. The negotiations were far too important for that. While Prince Maurice needed English support to give his *coup d'état* a semblance of legitimacy, James I considered Oldenbarnevelt's fall a great opportunity to settle a whole range of trade disputes between the two countries, and,

³⁴ Dutch National Archives, VOC 100, unfoliated (minutes of the meeting of the Gentlemen XVII, 1–10 Oct. 1615), VOC 312 f. 286, Grotius Papers, Supplement I, fol. 90, 137–141, 143–146, SG 5886, *Lias Engeland*, unfoliated (Dutch Estates General to Caron, 26 Oct. 1615); *Briefwisseling van Hugo Grotius* Vol. I pp. 410–413; *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. IV pp. 296–303.

if possible, give England an advantage over its commercial rival. The conference of 1619 did indeed result in a trade-sharing agreement and offensive and defensive alliance between the two companies. The VOC and EIC directors were under heavy pressure from James and the Dutch Estates General, and agreed to put their legal claims aside in order to find a practical solution. They had no taste for another round of fruitless wrangling over the nature and scope of freedom of trade and navigation—Grotius' absence was a real blessing in this regard.³⁵

Yet Grotius' imprisonment at Loevestein Castle and his subsequent exile in Paris constituted no clear break with the VOC or the Dutch regent elite. All through the 1620s, Grotius clung to the belief that his name would be cleared by Prince Frederick Henry, who became Stadtholder at the death of his elder brother and undid much of his political and religious legacy. This was not just a figment of Grotius' imagination. The powerful Boreel family of Middelburg remained in contact with the exile, for example. Grotius received letters regularly, and even detailed reports on the fourth Anglo-Dutch colonial conference, held in London from 1621 until 1623. Willem Boreel acted as VOC spokesman and chief negotiator on this occasion. He quickly became an object of hatred for both the EIC directors and English Privy Councilors, just like Grotius had been a decade earlier. Did he send copies of his reports to Paris just out of friendship for Grotius? Or did he keep the exile posted about developments in London because the latter might one day return to Holland and be of service again to the VOC? Grotius certainly believed the VOC ought to assist him in obtaining a pardon from the Dutch Estates General. He wrote to his brother in law, Nicolaas van Reigersberch, on 12 June 1628 that "he merited thus much of this company that, even if all others sleep, they ought to keep watch over me." Yet he prevented his own rehabilitation by steadfastly refusing any kind of amnesty arrangement predicated on the validity of his conviction in 1619. The real break came in 1632, when, after an 'incognito' stay in Holland of two years, Grotius decided to

³⁵ Den Tex, *Oldenbarnevelt* Vol. III: *Bestand, 1609–1619* pp. 578–762; *Briefwisseling van Hugo Grotius* Vol. II pp. 4–11; Fruin, *Verhooren en andere bescheiden betreffende het rechtsgeding van Hugo de Groot* pp. 33, 99, 101, 154, 183–184; National Archives of the United Kingdom, SP 84/87 f. 219r, SP 84/90 f. 104r; Grayson, 'From Protectorate to Partnership' pp. 210–240, 258–270.

burn his bridges behind him and return to Paris, where he soon became the Swedish ambassador. As such, he could not write a reply to Selden's *Mare Clausum* when it appeared in 1635. A spirited defense of *Mare Liberum* would have offended his new paymasters, who had always claimed the Sont and Baltic Sea for themselves.³⁶

6.3 *Grotius' Justification of a Dutch Monopoly of the Spice Trade (II):
Historical Fact and Fiction at the Anglo-Dutch Colonial Conferences of
1613 and 1615*

Grotius scholars have paid little attention to the historical sources that informed Grotius' defense of VOC interests at the Anglo-Dutch colonial conferences of 1613 and 1615. Only Clark's masterful study includes a brief discussion of the fierce commercial competition between the VOC and EIC in the first two decades of the seventeenth century. Yet his narrative account of Anglo-Dutch rivalry in the East Indies is entirely separate from his analysis of the negotiations as such, and based almost exclusively on secondary literature. Nor does he attempt to analyze the historical arguments bandied about at the conference table, and correlate them with the situation on the ground in the East Indies. As he explains, "little need be said, because the facts were in the main admitted by both sides." Nothing could be farther from the truth.³⁷

Passions were running high at the 1613 conference because the Dutch and English delegations interpreted the most notorious incidents in the East Indies in dramatically different fashions. As Clark admits, "on the historical question, the English wrote with asperity." The VOC commissioners received several affidavits under the seal of the High Court of Admiralty, signed by EIC merchants and captains, who had testified under oath about their alleged mistreatment by the Dutch. The London Company simply followed the example of the VOC in this respect. In March 1612, the VOC had sent the Dutch Estates General sworn statements of its own servants in order

³⁶ *Briefwisseling van Hugo Grotius* Vol. II pp. 148–149 and Vol. III p. 323; Nellen, *Hugo de Groot* pp. 40–63; Grayson, 'From Protectorate to Partnership' pp. 270–276.

Although Grotius refrained from publishing a defense of *Mare Liberum*, this did not prevent him from taking ample notes on Selden's *Mare Clausum*. These reading notes still survive among his papers in Leiden University Library, where they form part of BPL 918, fol. 261–264 to be precise.

³⁷ Clark, *The Colonial Conferences* pp. 21–41, 67–74.

to refute the charges laid at its door by ambassador Winwood. Unlike the EIC affidavits, which are merely listed in a British Library manuscript, the VOC depositions are still extant in the Grotius Papers at the Dutch National Archives. The VOC spokesman at the 1613 conference made ample use of these sworn statements in his replies to the English negotiators. At his disposal were also the VOC's point-by-point refutation of an EIC petition, submitted to the Earl of Salisbury in early October 1611, and a summary of VOC correspondence, which director Meerman had prepared for the Gentlemen XVII in late August 1612.³⁸

Grotius' reconstruction of some of the more egregious confrontations between the two trading companies was diametrically opposed to that of his English counterparts. *Pace* Clark, each side contested the historical facts presented by the other side. It is the purpose of this section to analyze the negotiators' use of historical sources. The aim is to determine what Dutch and English negotiators did and did not know about the situation on the ground in the East Indies, and whether they could have reached different conclusions based on their own knowledge, or countervailing evidence provided by their opponents. Was it possible for them to arrive at a shared understanding of the past, even though they held different notions of natural law and natural rights? Can Grotius be said to have negotiated in good faith? Was his defense of VOC interests true to the historical facts at his disposal? The information that he received from the VOC directors did by and large support his case against the English. The countervailing evidence was fairly minimal, and could easily be explained away by Grotius, certainly in legal terms. Although considered a second Tacitus—he finished the first draft of his history of the Dutch revolt in 1613—Grotius remained a lawyer first and foremost.³⁹

It should be emphasized that, although Grotius was no puppet of the Gentlemen XVII, his perception of key events in the East Indies was quite comparable to theirs. He did not have access to any independent sources, of course, but neither did they. Apart from the odd intercepted letter of some Portuguese official, the VOC directors relied on the Company's personnel in Asia for most of their information. The news selection that the directors prepared for Grotius

³⁸ *Ibidem* pp. 46–47, 68; British Library, Additional Manuscripts 12.498 f. 8v., 14r., 15r.; Dutch National Archives, Grotius Papers, Supplement I fol. 229–240, 588–604.

³⁹ C.L. Heesakkers, "Grotius als Geschiedschrijver" in: *Het Delfts Orakel Hugo de Groot, 1583–1645* ed. A.C.G.M. Eyffinger (Delft, 1983) pp. 103–108.

was certainly representative of the letters that they received from their servants in the East. A busy man like Grotius, who combined the offices of the Solicitor General of Holland and Pensionary of Rotterdam for a while, could not possibly read this correspondence in its entirety. The Gentlemen XVII were not even up to that task: they asked director Meerman to summarize it for them! There is no indication, however, that the Gentlemen XVII censured the letters, minutes and sworn statements that they forwarded to Grotius. Indeed, nearly all the sources extant in the Grotius Papers are of great importance to the early history of the VOC. Several documents have not survived in the VOC archives proper. They include the letters of Laurens Reael, Governor of the Moluccas, of March and April 1613, Meerman's summary of VOC correspondence, submitted to the Gentlemen XVII on 26 August 1612, and the sworn statements that Jan Pieterszoon Coen sent along with his letter to the VOC directors of 1 January 1614. It is a unique set of materials for studying the rise of Dutch power in the Spice Islands and the estrangement between the VOC and EIC, two developments that were inextricably intertwined. Although these materials were hardly indisputable proof for the Dutch side of the story, the countervailing evidence contained therein was limited in scope and not at all straightforward—the VOC apologist could safely ignore it. Indeed, English complaints about their mistreatment by the Dutch were at times just as unreliable and self-serving as Grotius' objections to English interloping in the Spice Islands. The letters and sworn statements provided by the VOC directors allowed him to make a formidable case for the Company's incipient monopoly of the spice trade.⁴⁰

This section examines five instances of English interloping in the Spice Islands, just before and during the Twelve Years' Truce. Each voyage was the subject of acrimonious debate during the Anglo-Dutch colonial conferences. The EIC captains involved were a) Sir Henry Middleton, who reached the Moluccas in 1605, b) William Keeling and David Middleton, who visited the Banda Islands in 1609 and 1610, c) John Saris, who passed through the Moluccas in 1613, and d) John Jourdain, who made his way to Ambon in 1613. Using their own journals as well as VOC sources, it is possible to recon-

⁴⁰ Dutch National Archives, Grotius Paper, Supplement I fol. 103–114, 588–604. *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. I pp. 10–14.

struct in some detail their interaction with the inhabitants of the Spice Islands and VOC merchants and commanders. In addition, the current section discusses the diplomatic exchanges to which every voyage gave rise. Charges and counter charges followed a familiar pattern at the Anglo-Dutch colonial conferences. Both sides stuck to their guns, each rejecting the historical arguments of the other party. Grotius' case was more compelling than has hitherto been assumed, even though his sources were necessarily incomplete—he did not have access to the EIC journals, for instance. That said, the VOC materials did include some countervailing evidence, which Grotius blithely omitted from his replies to the English negotiators.

English attempts to break into the trade of the Spice Islands confronts us with the practical implications of Grotius' rights and contract theories, which became a convenient excuse for the progressive enslavement of indigenous peoples by the VOC. Grotius had first developed his rights and contract theories in defense of Dutch interloping in *Asia Portuguesa*. These theories were an essential ingredient of his heroic image of the VOC—the natives' liberator from Portuguese 'tyranny', which he conveyed so brilliantly in *De Jure Praedae* and *Mare Liberum*. Yet they acquired a very different meaning at the Anglo-Dutch colonial conferences. Ever the VOC apologist, Grotius had no qualms about changing the center of gravity in his ideological construct. In order to justify the VOC's incipient monopoly of the spice trade, he de-emphasized freedom of trade and navigation, prioritized the inviolability of contracts, and affirmed the Company's right to punish transgressors of the natural law, in this case the English and their indigenous trading partners. There is no indication that Grotius worried about the natives' lack of enthusiasm for the delivery contracts or objected to the increasingly restrictive conditions that the VOC imposed upon them. He paid very little attention to the evidence at his disposal which suggested that VOC officials enforced the delivery contracts by means of violence and intimidation, and abused the natives' growing dependence on the Company in a succession of contracts, each more monopolistic and illiberal than the last. Grotius, like Oldenbarnvelt, considered the VOC indispensable to winning the Dutch war of independence and acknowledged the exigencies of war finance—the VOC could not withstand the Iberian enemy without the profits of the spice trade. When push came to shove, the survival of the United Provinces as an independent state took precedence over the rights of both indigenous peoples and European competitors alike.

I *The Voyage of Henry Middleton to the Moluccas, 1604–1606*

Henry Middleton left Gravesend with four ships on Lady's Day 1604, headed for the East Indies. A younger son of a Chester merchant, he was put in charge of the Second Voyage thanks to family connections—a cousin, Robert Middleton, happened to be an EIC director. That said, Henry Middleton had already distinguished himself on the First Voyage (1602–1603) and been promoted from factor to captain by its commander, Sir James Lancaster. He would not betray the trust which his cousin and Lancaster put in him. On 23 December 1604 (o.s.), his fleet reached Bantam intact, albeit with a reduced crew. The pepper which English factors had collected locally for almost two years was loaded into the *Hector* and *Susan*, which immediately returned to England. The *Ascension*, under the command of Christopher Colthurst, and the *Dragon*, under the command of Middleton, left Bantam on 21/31 January. They headed east along the coast of Java.⁴¹

Middleton was in a great hurry to get to the Spice Islands. He knew that the VOC commander Steven van der Haghen was bound in that direction as well, with schemes of conquest which were likely to spoil his plans. Van der Haghen had left Bantam with twelve ships a fortnight earlier, yet proceeded slowly along Java's northern coast in order to visit various Dutch trading posts. As a result, Middleton was the first to reach Ambon, and anchored off the town of Mamala, a few miles from Hitu, on 10/20 February 1605. To Middleton's disappointment, the inhabitants of Mamala declined to sell their cloves without permission from the Portuguese governor of Ambon, and, when it came, demanded an unreasonably high price for their wares. Meanwhile Van der Haghen's fleet had anchored before the Portuguese fort on the Ley-Timor Peninsula. Its garrison surrendered to the VOC commander after a faint show of resistance. The capitulation doomed Middleton's trading prospects at Ambon. When the news reached Mamala, its habitants refused to trade without permission of the Dutch, which would certainly not be forthcoming. On 18/28 February, the *Dragon* proceeded to the Moluccas, while the *Ascension* headed for the Banda Islands.⁴²

⁴¹ *The Voyage of Sir Henry Middleton to the Moluccas, 1604–1606* ed. William Foster (London: Hakluyt Society, 1943) pp. xv–xx.

⁴² *Ibidem* pp. xx–xxi.

The *Ascension's* voyage to the Banda Islands has left few traces in Dutch and English records. Its crew was well treated by the native authorities at Neyra and Great Banda, and obtained a fair quantity of mace and nutmeg, arriving back at Bantam on 16/26 August 1605. Little is known about the crew's relations with the Dutch factors in the Banda Islands, except that Van der Haghen spoke with Colthurst on 16/26 July. The captain of the *Ascension* proposed that they return jointly to Ambon, but was rebuffed by the VOC commander, who told him that the Dutch fleet would remain in the Banda Islands for another fortnight. It was a white lie. Van der Haghen hoisted the sails as soon as the *Ascension* had disappeared below the horizon and returned to Ambon to squash a rebellion of the Dutch garrison there. No wonder he could do without Colthurst's company! Otherwise, he made no mention of the English in his journal, nor could he object to their trade in the Banda Islands. The contract signed on 3/13 July 1605 still allowed the Bandanese to trade "with other nations that bring along goods useful to them which cannot be obtained from the Hollanders." The situation at Ambon was a bit different, of course. The villages that were once "vassals" of the King of Portugal transferred their allegiance to the Dutch Estates General. The Hituese, who were allies of the Dutch, made a contract with Van der Haghen that obliged them, out of gratitude for their liberation from Portuguese oppression, to sell all their cloves to the Dutch in perpetuity. Middleton was in no position to do anything about this. The inhabitants of Mamala, his potential trading partners, maintained an unswerving loyalty to their new masters. This would change in later years. The VOC and EIC were first to clash in the Moluccas, however, reached by Middleton on 18/28 March 1605.⁴³

From the moment of his arrival, Middleton was caught up in the fierce battle which the Dutch and Portuguese waged for control of the Moluccas. They oftentimes left the actual fighting to their proxies, the Sultans of Ternate and Tidore, who had no intention of abandoning the age-old feud between the two royal families. Middleton

⁴³ *The Register of Letters &c. of the Governour and Company of Merchants of London trading into the East Indies, 1600. 1619* ed. Sir George Birdwood & William Foster (London, 1893) pp. 73, 107, 108, 149; *De Opkomst van het Nederlandsch Gezag in Oost-Indie* ed. De Jonge Vol. III pp. 310, 313–320, 324–325; Heeres, "Corpus Diplomaticum Neerlandico-Indicum" (Part I, 1596–1650) pp. 31–41.

realized that it was good fishing in troubled waters, and certainly made the most of it. He was on his way to the Portuguese castle at Tidore when, as luck would have it, he encountered a corra-corra (a kind of canoe) carrying the Sultan of Ternate and his Dutch allies, with eighty Tidorese in hot pursuit. He instinctively sided with the underdog and chased away the Tidorese fleet, which earned him the gratitude of the Sultan of Ternate and the Dutch merchants. He received permission to trade in the Sultan's dominions, and was advised by the Dutch merchants on the prices that he should demand for his cloth and calicoes. Their cooperation was likely to be short-lived. VOC reinforcements were expected in the Moluccas any day.⁴⁴

After he had established a temporary trading post at Ternate, Middleton proceeded to the Portuguese fortress at Tidore, much to the distress of the Sultan of Ternate and his Dutch allies. After some haggling, trade goods were put ashore at Tidore as well, under the care of a few English merchants. The Sultan of Tidore issued a proclamation in which he urged his subjects to sell their cloves and victuals to the English. He also provided Middleton with a letter for his governor at the island of Matjan. The *Dragon* set sail for Matjan on 21 April (o.s.) and passed through a squadron of five VOC ships at midnight, exchanging salutes and messages. The voyage to Matjan could hardly be called a commercial success. The governors of Taffasoho and Mofficia, two Matjan towns belonging to Tidore and Ternate, respectively, refused to honor the trading privileges that Middleton had been granted by the Sultans. Then, on 2 May (o.s.), he received a request for his immediate return from the Portuguese commander at Tidore, who wanted him

[t]o see the fight [with the Dutch], which he dayly expected, and to bring those five Portingalls with him which were at Taffasoa; willing the Generall that he should come to an anchor before the Kings towne, where he should have all the cloves they had.

The *Dragon* anchored off the Portuguese fortress one day later, in the midst of the Dutch fleet. The master of the *Dragon*, Philip de Grave, went aboard the Dutch flagship, where he found a cold reception. Cornelis Bastiaanszoon, Van der Haghen's second-in-command,

⁴⁴ *The Last East-Indian Voyage* (London: Walter Burre, 1606), reprinted in *The Voyage of Sir Henry Middleton to the Moluccas, 1604–1606* ed. William Foster (London: Hakluyt Society, 1943) pp. 29–32.

harbored the suspicion that Middleton had supplied arms and ammunition to the Portuguese, an accusation strenuously denied by De Grave, who managed to placate his compatriots somewhat. The charge was not unfounded. According to contemporary Spanish sources, Middleton provided the Portuguese commander with ten barrels of powder, one hundred cannon balls and a good number of helmets. It made no difference: the Portuguese position became increasingly precarious. The fortress was pounded for two days by relentless cannonades from five Dutch ships and a Dutch battery ashore. On 9 May (o.s.), it suddenly “tooke fire and blewe up even with the ground,” due to a chance hit of its powder magazine. Thanks to Middleton’s intercession, the survivors were allowed to embark for Manila, while the Sultan of Tidore made his peace with Cornelis Bastiaanszoon. Portuguese rule had come to an end in the Moluccas.⁴⁵

The pacification of the Moluccas had profound consequences for Middleton as well. Even before the Portuguese surrender, the Sultan of Ternate had given orders prohibiting clove deliveries to English merchants, presumably under pressure from Cornelis Bastiaanszoon. Yet Middleton did not give up easily and asked Cichel Gegogoe, the Sultan’s uncle, to intercede on his behalf. The Ternatan prince was happy to be of service to Middleton. He had known Sir Francis Drake personally—the Elizabethan sea dog called at Ternate in 1579—and resented the fact that his nephew had been “so overruled by the Hollanders,” which he considered a sleight of honor. At his uncle’s request, the Sultan rescinded his orders on 22 May (o.s.), though not for long. The Dutch continued their chicaneries, and prevented the natives, who were in debt to the VOC, from trading with the English. Crucially, the Sultan of Ternate was forced to deny Middleton’s request for a permanent English factory at the island. As the Sultan explained,

he had made promise, by writing and word, to the Hollanders that no nation should have trade with him or his people but only they.

There was no use complaining to Cornelis Bastiaanszoon, of course, who informed Middleton that “he was bound to do the best he could for his adventurers.” The Dutch even went so far as to dictate the

⁴⁵ Foster, *The Voyage of Sir Henry Middleton to the Moluccas* pp. 33–42, 45–49.

Sultan's letter to King James, which was delivered to Middleton "with so little state and sealed with a merchants seale" as to arouse his suspicion. The letter did indeed contain a lot of incriminating evidence against him. It detailed his arms trade with the Portuguese, for example, something strictly forbidden by James I. Middleton was smart enough to reject it and obtain a new one through the good offices of Cichel Gegogoe. The Sultan of Ternate visited Middleton in state on 16 June (o.s.), this time delivering his missive with due ceremony. A permanent English factory at Ternate was nevertheless out of the question. As the Sultan informed Middleton,

the Hollanders inforst him to the contrary, he and his subjects owing them much, which he hoped to pay the next harvest, and that then he would take another order with them.

The Sultan had his hands tied for the foreseeable future. Cichel Gegogoe informed Middleton that the Dutch squadron commander had even threatened to abandon Ternate for Tidore unless the Sultan "gave order for our banishment." The *Dragon* lifted anchor on 18 June (o.s.) and sailed to the island of Matjan, where the town of Taffasoho put itself under Middleton's protection. It was a sweet revenge for the Sultan of Tidore, who was under heavy pressure to cede the town to the Dutch. Middleton had no men to spare for a garrison, however, and resumed his voyage to Bantam, where he arrived on 24 July (o.s.). Two months later, the *Dragon* departed for England and cast anchor in the Downs on 6 May 1606 (o.s.). Middleton was received in audience by King James at Greenwich. He offered the monarch several letters and gifts from the indigenous rulers of Bantam and the Spice Islands, receiving a knighthood in return.⁴⁶

Middleton's voyage to the Spice Islands was a bone of contention between the Dutch and English East India Companies both before and during the London conference of 1613. When the EIC directors petitioned Salisbury in October 1611, they included a rather biased account of the voyage, which, they claimed, was evidence of Dutch intentions "wholye to debarre" them from the East Indies trade. They never mentioned Middleton's proclivity for arms deal-

⁴⁶ *Ibidem* pp. xxix–xxxi, 50–60, 62–63; Dutch National Archives, Grotius Papers, Supplement I, fol. 302–303.

ing, of course. Instead, they alleged that he had been “absolutely banisht” from Ternate “by the Hollanders meanes” and been forced to trade with the Portuguese at Tidore. This dramatic compression of events, not to mention the reversal of cause and effect, was in contradiction even with English sources, notably the pamphlet *The Last East-Indian Voyage*, published in London in 1606. Yet the VOC’s rebuttal was full of historical untruths as well. Ambassador Winwood received a stack of depositions in the middle of March 1612, along with the Dutch Estates General’s reply to his proposition of 1 February. It contained three sworn statements by VOC servants regarding Middleton’s visit to the Spice Islands. According to Captain Dirck Allertsen, the Englishman had stationed two of his gunners at the castle of Tidore—an erroneous allegation—and provided the Spanish (sic!) with four cannons and “a great quantity” of ammunition and powder and shot. The deposition of Captain Arent Maertsen called into question the EIC’s claim to Taffasoho. Though unaware of the town’s voluntary subjection to English authority, he stated, quite correctly, that no EIC servants had been found inside the town when Paulus van Caerden captured it on 21 June 1608. If the London merchants still claimed Taffasoho, as suggested by their petition to Salisbury, their pretensions could only be *de jure*, not *de facto*. Captain Hans Rymelandt and merchant Dirck van der Aertbrugge turned the tables even more decisively on the English. Their joint deposition charged Middleton with gross abuse of Dutch friendship. For all the liberality shown to him by Van der Haghen, he had allegedly sold arms and ammunition to the Portuguese not just at Tidore, but also at Ambon. Middleton was supposed to have betrayed Van der Haghen’s plans for attacking the Portuguese fortress at Ambon—a groundless accusation. Both deponents furthermore declared that the VOC enjoyed a commercial monopoly in the Spice Islands by right of contract and conquest, and that the EIC had only been allowed to trade there out of “great amity with the English nation, being these provinces’ neighbors.” In their view, Middleton only had himself to blame for his exclusion from Ternate. It was the Sultan who had asked Middleton to leave when informed that “the English had assisted the Tidorese, who were his enemies as well, with ammunition and otherwise, to the great disadvantage of himself and the Dutch.” Grotius adopted the same line of argument at the 1613 conference.⁴⁷

⁴⁷ Eysinga, *The Colonial Conferences* pp. 42–43; Foster, *The Voyage of Sir Henry Middleton*

Predictably, the English negotiators were the first to bring up Middleton's voyage at the London conference. They made a half-

to the Moluccas pp. 29–60; Clark, *The Colonial Conferences* pp. 42–47; Dutch National Archives, Grotius Papers, Supplement I, fol. 229r–230v and 231–234.

There is a distinct possibility that Dirck Allertsen did not have Sir Henry Middleton in mind, but his brother, David Middleton. The latter commanded the *Consent* in the EIC's Third Voyage and visited Tidore in the winter of 1608. (He arrived on 6/16 January 1608 and left again on 14/24 March, to be precise.) According to his deposition, Allertsen was informed about Middleton's collusion with the *Maistro del Campo* at Tidore by one "Captain Vidange," a Spanish officer from the Philippines, who had served first at Ternate and then at Tidore, following Spain's conquest of large parts of the Moluccas in March 1606. The date and circumstances of Allertsen's interview with "Captain Vidgange" also suggest that David, not Henry, Middleton was the subject of conversation. Allertsen met with the Spanish officer in order to negotiate the release of Paulus van Caerden, who was imprisoned at Tidore on 17 Sept. 1608, just six months after David Middleton's departure from the island.

Allertsen's allegations were far from groundless, judging by a letter of Jan Lodewijckz. Roossengin of 8 May 1608. Roossengin informed the Gentlemen XVII that an English yacht had arrived at Tidore on 16 January 1608 and that its commander and crew behaved rather suspiciously. They had anchored the ship "close to the enemy's battery" and made it clear that "they did not want us aboard" when accosted by the Dutch factors.

The English sources are even more straightforward. According to *Hakluytus Posthumus*, David Middleton and his crew "had privy trade with the people by night, and were Jovial and frolicke by day with the Spaniards." This may well explain Samuel Purchas' decision to omit large parts of David Middleton's journal from *Hakluytus Posthumus or Purchas His Pilgrimes* (1625), a compilation of journals of English voyages to the East and West Indies. Was David Middleton's journal really filled with "things which might be tedious," as Purchas claimed, or did it contain too much self-incriminating evidence?

Since he had no access to these sources, Grotius was at first unaware of the fact that the Middleton brothers had visited the Moluccas on two separate occasions. In his reply to the English negotiators of 20/30 April 1613, he heaped together the brothers' distinct dealings with the Portuguese in 1605 and the Spanish in 1608. Arms and ammunition were exchanged for cloves in both cases, however. The English negotiators did distinguish between the voyages of Henry and David Middleton, of course. They accused Cornelis Matelief Jr. of shooting at "capt. David Middleton for no other cause but that he rid at Tydore." Grotius informed Matelief about these accusations at some point. When the English negotiators passed through Rotterdam in January 1615, Matelief met with them in Grotius' presence in order to clear himself of "some things which David Middleton had urged against him." It is doubtful, however, that he ordered the Dutch cannonade. He left the Moluccas on 26 June 1607, six months before Middleton's arrival there.

Compare Dutch National Archives, Grotius Papers, Supplement I, fol. 229v–230r, Foster, *England's Quest of Eastern Trade* pp. 198–199; *De derde reis van de V.O.C. naar Oost-Indië onder het beleid van admiraal Paulus van Caerden uitgezeild in 1606* ed. A. de Booy 2 vols. (The Hague; Martinus Nijhoff, 1968 and 1970) Vol. I pp. 59 ff. and Vol. II p. 164; Samuel Purchas, *Hakluytus Posthumus or Purchas His Pilgrimes* 20 vols. (London, 1625; reprinted Glasgow, 1905) Vol. III p. 55; British Library, Additional Manuscripts 12.498, fol. 6v. 11v–12r, Eysinga, *The Colonial Conferences* p. 175, Stapel, *Geschiedenis van Nederlandsch Indië* Vol. III p. 56.

hearted argument from prescription, claiming that “we never gave over the trade.” In their second memorandum of 14/24 April 1613, they asserted that no fewer than eight English captains had followed in the footsteps of Sir Francis Drake and traded in the Moluccas. Allegedly, Middleton was not the first Englishman to visit the Spice Islands after Drake—which he actually was, but the embodiment of an uninterrupted tradition of English commerce in the East Indies, stretching far back in time. Their proof was the letter which Middleton had received from the Sultan of Ternate, addressed to James I, “confirmeing that trade which hath been supplied from time to time until this present.” It were the Dutch, however, who had created difficulties and plied the Sultan of Ternate with “scandalous information.” The latter had been fooled into believing that “our marchants were pyrats” and that “the kings Ma.ty was a poor king, and of small force by sea,” which left the Sultan no choice but “to banish us from thence.”⁴⁸

In his reply of 20/30 April 1613, Grotius answered the charge both with denials and counter charges, based on the VOC attestations. He assured his interlocutors that VOC personnel had been commanded to “carrye themselves most friendly towards the subjects of the most famous and renowned King of the Brittaines.” Nor had the directors heard anything to the contrary from their servants in the East, but if they did, they would punish the offenders most severely. Grotius expressed the pious hope that no one might commit the folly of detracting from “the glory and reverence of such a King and Kingdome of such greate power in other matters, but especially upon the sea, which is due unto them by the confession of the whole world.” Hence he was sorry to report that Englishmen in Asia had shown little respect for the Dutch Estates General and “their title allowed of God, King and enemyes,” which they had abused on occasion in the “most hateful and dispightful termes.” As regards Middleton’s forced departure from Ternate, Grotius emphasized that it was the Sultan, not the Dutch, who had given the orders. What else could be expected from a ruler who was prone to believe the worst—“as it is the manner amongst the barbarians,” and harbored a mortal hatred of the Sultan of Tidore? For Middleton

⁴⁸ British Library, Additional Manuscripts 12.498, fol. 6r–v.

did not just forewarn the Portuguese about the combined Dutch-Ternatan siege of the castle of Tidore, but also offered them “4 greate peeces of ordinance, abundance of powder and shott, and also two skilfull men to descharge their ordinance.” The VOC merchants at Ternate had otherwise “not hindered and forbidden the Englishmen,” but shown them all kindness and friendship, providing food and other necessities of life.⁴⁹

Oddly enough, Grotius did not have anything to say about the Sultan’s correspondence with the King of England, even though a copy of the Sultan’s first letter—summarily rejected by Middleton—has survived among his private papers. In all likelihood, Grotius never obtained a copy of the letter until the conference of 1615, when he paraphrased it in his third reply to the English negotiators. Even then he remained unaware of the existence of the second letter, which Middleton had actually delivered to James I. According to Grotius, the Sultan of Ternate had written to the King “in plaine termes” regarding his long and fruitless wait for English military aid, which left him no choice but to keep faith with the VOC, “since we had succoured him against the Portugalls.” Yet the second letter revealed the Sultan to be less than enthusiastic about his obligations to the Company. He would have granted the English a permanent factory if it had not been for Cornelis Bastiaanszoon forcibly reminding him of his commitments to the VOC. He had been forced to acquiesce in Middleton’s expulsion from Ternate, much “against our liking,” but assured James I that “if any of your nation come hereafter, they shall be welcome.” Grotius never read the Sultan’s second letter. It is doubtful, however, that he would have taken its contents seriously even if he could have compared both sources. He never ceased to defend the VOC’s policy in the Spice Islands, even though he was aware of the Company’s internal discussions about the treatment of indigenous allies as early as August 1612.⁵⁰

⁴⁹ Ibidem fol. 11v–12r.

Although the VOC depositions of February and March 1612 were Grotius’ main source of information, he could have made the same argument based on the diary of Hendrik Jansz. Craen, who had served under Cornelis Bastiaanszoon aboard the *Gelderland*. See *De Opkomst van het Nederlandsch Gezag* ed. De Jonge Vol. III p. 189.

⁵⁰ Dutch National Archives, Grotius Papers, Supplement I, fol. 302–303; British Library, Additional Manuscripts 12,498, fol. 31v; Foster, *The Voyage of Sir Henry Middleton to the Moluccas* pp. 61–63; Birdwood and Foster, *The Register of Letters* pp. 67–69.

Grotius may have been oblivious to the dark side of Dutch colonialism precisely because of the mixed signals he received from the VOC directors, particularly through Dirck Meerman of Delft, who prepared a summary of VOC correspondence for a meeting of the Gentlemen XVII in late August 1612. In addition, Grotius received a copy of a 'Discourse on the Moluccas', written by Captain Apollonius Schotte, Governor of Matjan (1608–1612), and probably addressed to the Zeeland VOC directors. The copies of Meerman's summary and Schotte's 'Discourse' that have survived among the Grotius Papers in the Dutch National Archives contain marginalia in Grotius' own hand, mainly reading notes. Although he may not have obtained a copy of Schotte's 'Discourse' until the conference of 1615, he was acquainted with Schotte's ideas at a much earlier date. For Schotte incorporated parts of his 'Discourse' in his letter to the Zeeland VOC directors of 19 January 1611. It was circulated among the Gentlemen XVII upon its receipt eighteen months later. If Grotius did not have access to the letter as such—a rather unlikely scenario considering his Zeeland connections, he could have read all about it in Meerman's summary of VOC correspondence. The Delft VOC director just could not get enough of Schotte's letter and paraphrased it at length. He considered it "a wonderfully comprehensive analysis of the state of the Moluccas, which ought to be read and reread, giving careful consideration to its contents." The advice would not have been lost on Grotius.⁵¹

⁵¹ Dutch National Archives, VOC 1053, unfoliated (Apollonius Schotte to the VOC directors at Middelburg, 9 Jan. 1611) and Grotius Papers, Supplement I, f. fol. 153–166, 588–604.

Schotte's letter is fifteen pages long and paginated. It contains marginalia in the hand of Dirk Meerman, who underlined some passages as well.

Captain Appolonius Schotte, a native of Middelburg, went to the East Indies aboard the fleet of Paulus van Caerden in 1606. He was Governor of the island of Matjan from 1608 until 1612. He mentions in his 'Discourse' the Spanish capture of a VOC fortress on the island of Gilolo, "which Jehan de Silva took from us in the year 1611" (Dutch National Archives, Grotius Papers, Supplement I, f. 160r). The *terminus ante quem* must be its author's death on 25 November 1613. Yet Schotte may well have completed the manuscript before leaving the Moluccas in November 1612.

The only surviving manuscript copy of Schotte's 'Discourse' is extant in the Grotius Papers at the Dutch National Archives, Supplement I, ff. 153–166. A slightly different version appeared in print in 1619, appended to *Oost- ende West-Indische Spiegel* (Leyden: Nicolaes van Geelkercken, 1619), an account of the circumnavigation of VOC commander Joris van Spilbergen. *Oost- ende West-Indische Spiegel* is available in a modern source edition: *De reis om de wereld van Joris van Spilbergen, 1614–1617*

Both Meerman's summary and Schotte's 'Discourse' reveal the severe limitations imposed on Grotius by his sources of information, which, it should be stressed, the Gentlemen XVII used for their own policy-making as well. Neither document offered a wholesale and unambiguous critique of VOC policy. With few exceptions, the Company's internal discussions were aimed at securing a monopoly of the trade in the Spice Islands and increasing its profitability, not improving the lot of indigenous peoples *per se*. To be sure, Meerman shared Schotte's misgivings about the contracts that the VOC had imposed on its allies in the Moluccas, and said as much in his summary. The Delft director approvingly cited Schotte's laments for the "far too extensive exemptions from tollage, stipulated by our men in the extremity of the Ternatans." It was imperative to reduce the number of tax exemptions enjoyed by the VOC, so Meerman informed the Gentlemen XVII, which would otherwise curry "too much disfavor" with its allies in the Moluccas, causing "no small dangers." Yet this moment of self-criticism proved all too fleeting. In other parts of his paraphrase, Meerman embraced policy suggestions that were clearly harmful to the natives. He agreed with Schotte that the VOC should declare the Moluccas off-limits to Chinese merchants, "who spoil our trade in cottons and make the Ternatans too knowledgeable." It was better to reserve the "small domestic trade" of the Spice Islands for Dutch settlers instead of indigenous merchants. In other words, the Ternatans had to be reduced to absolute dependence on the VOC for their trade and livelihood. Meerman's paraphrase was certainly representative of the contents and tone of Schotte's letter. The Governor of Matjan became less well disposed towards the Company's indigenous allies as time went by. When he put together his 'Discourse', he was far more critical of the Ternatans than he had been in his letter to the Zeeland VOC directors of January 1611. The 'Discourse' explicitly warned the VOC directors not to put their trust in an "imprudent, voluptuous, savage, avaricious, tyrannical, perjured, and, in one word, Moorish nation." Why leave the Ternatans any room for maneuver at all? The Company would be better off if it established strong garrisons in the Moluccas, along with colonies of retired VOC soldiers and—this was new—

ed. J.C.M. Wamsinck (The Hague: Martinus Nijhoff, 1943). The text of Schotte's 'Discourse' is reproduced on pp. 114–128.

settlements of native converts to Christianity, preferably uprooted from Macassar and Ceram.⁵²

The bad press that the Ternatans received from Meerman and Schotte could hardly have encouraged Grotius to question the VOC contracts and reexamine the natives' refusal to abide by them. As he explained to the English negotiators, it was legitimate for human beings to sign away all their possessions and even their natural freedom for the sake of physical survival. The inhabitants of the Spice Islands should count themselves lucky that they enjoyed Dutch protection against the Spanish and Portuguese on far less egregious terms than outright enslavement. True, a few of them were unwilling to abide by the natural law principle *pacta servanda sunt* ("treaties must be honored"). Yet these obstinate rebels were just a tiny minority, who merited exemplary punishment at the hands of VOC commanders.⁵³

Grotius' uncompromising stance, though defensible in legal terms, ignored Schotte's trenchant critique of the VOC contracts. The Company's policy on this point came in for a lot of criticism in Schotte's 'Discourse', a document at Grotius' disposal. The Governor of Matjan admitted in his 'Discourse' that the VOC contracts were "not terribly advantageous" for the natives, and roundly condemned the "sinister practices" of François Wittert, Verhoef's second-in-command, who had turned the Company into Ternate's premier tax collector, "which I dearly wished would not have happened." Since the Sultan of Ternate derived most of his personal income from a toll on merchants, the island's "nobles and commons" refused to accept its cession to the VOC. Schotte worried that the VOC might have to renege on the contract itself, as some of its commanders had made some grandiose promises "which we have not been able to fulfill so far." In his experience, nations which had submitted themselves

⁵² Dutch National Archives, Grotius Papers, Supplement I, f. 153-166, 600v-601v and VOC 1053 (Apollonius Schotte to the VOC directors at Middelburg, 9 Jan. 1611).

M.A.P. Meilink-Roelofs has extensively analyzed the systematic exclusion of indigenous merchants from the Spice Islands, a policy which the VOC adopted in the 1610s, and its deleterious effects on the inhabitants. Compare M.A.P. Meilink-Roelofs, *Asian trade and European influence in the Indonesian archipelago, 1500-1630* (The Hague, 1962) pp. 207-238. On Schotte's strained relationship with the Ternatans, see Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 257-258.

⁵³ British Library, Additional Manuscripts 12.498, fol. 4v-5r, 11v, 25r-v, 30r.

to others out of sheer necessity and in the hope of military support tried to get rid of their saviors sooner rather than later, especially if the latter failed to meet their expectations. After all, “every nation or human being is by nature desirous of liberty.”⁵⁴

This had been Grotius’ premise as well in writing *De Jure Praedae*. Yet the Company’s rise to power in the Spice Islands forced him to change his tune at the Anglo-Dutch colonial conferences. There was a subtle shift in emphasis in his natural law and natural rights theories. Only contract and conquest could justify the VOC’s incipient monopoly of the spice trade, which severely circumscribed, or even annulled, the self-determination of indigenous peoples. Grotius’ claim that the delivery contracts were a token of the natives’ gratitude for their liberation from Portuguese tyranny—a phrase endlessly repeated at both conferences—began to sound hollow indeed.

II *The Voyages of William Keeling and David Middleton to the Banda Islands, 1609–1610*

Henry Middleton’s visit to the Moluccas was just a minor incident in the annals of the VOC as compared to the upheaval and embarrassment caused by William Keeling and David Middleton, two English captains who reached the Banda Islands in the spring of 1609 and winter of 1610, respectively. Although Henry Middleton used the wartime conditions in the Moluccas to his advantage, he did not do so for very long. By contrast, William Keeling and David Middleton could tap a nearly inexhaustible reservoir of Bandanese resentment, and continuously plied the islanders with arms and ammunition for their guerilla war against the VOC. *Hakluytus Posthumus or Purchas’ His Pilgrims* (1625) is the most important printed source for these confrontations between the VOC and EIC. The relevant passages in *Hakluytus Posthumus or Purchas’ His Pilgrims* are based on Keeling’s journal and Middleton’s correspondence with the EIC directors.⁵⁵

The alarm which the VOC took at English interloping in the Banda Islands has left its traces in the Grotius Papers at the Dutch National Archives, which contain more references to Keeling than

⁵⁴ Dutch National Archives, Grotius Papers, Supplement I, f. 155v–156r; Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef naar Azie* pp. 106–110, 364

⁵⁵ *Hakluytus Posthumus or Purchas His Pilgrimes* Vol. II pp. 528–544, Vol. III pp. 91–114.

all the VOC letter books combined. That said, Grotius consulted only a limited number of sources in preparation for the Anglo-Dutch conferences. He had no access to the letters which the merchants and officers aboard the fleet of Pieter Willemszoon Verhoef wrote home about the situation in the Banda Islands, few of which are still extant, in fact. Instead, he derived his information from a) the directors' refutation of the EIC petition of early October 1611, b) three VOC depositions of February and March 1612, c) the 'Short Remonstrance' (*Corte Remonstrantie*) of Jacques L'Hermite Jr., and d) Meerman's summary of VOC correspondence. Both the 'Short Remonstrance' and Meerman's summary were discussed at a meeting of the Gentlemen XVII in late August 1612. Grotius may well have read (some of) these documents before they did. Just a month earlier, the Dutch Estates General had received a formal VOC complaint about English interloping in the Spice Islands, which had been drafted by Grotius. The petition explicitly referred to the "disturbed relations" between the VOC and the natives as a result of the English presence in the Banda Islands.⁵⁶

⁵⁶ Little has survived in the VOC archives regarding the Fourth Voyage, commanded by the ill-fated Pieter Willemszoon Verhoef. According to Opstall, quite a few letters and other documents relating to Verhoef's voyage were removed from the VOC archives in preparation for the Anglo-Dutch colonial conferences. See Opstall, *De reis van de vloot van Pieter Willemsz Verhoeff* p. xvi.

The presence of William Keeling and David Middleton in the Banda Islands in 1609/10 is discussed in a few places in the extant VOC letter books. Compare Dutch National Archives, VOC 1056 f. 227v-228r (Hendrik Brouwer to the VOC directors, 26 May 1612) and VOC 1053, unfoliated (Pieter Bahuel to the VOC directors, 1 June 1610; Willem van der Voort, Governor of Nassau Castle, to Jacques L'Hermite, 2 June 1610; L'Hermite to the VOC directors, 4 Sept. 1610; L'Hermite to Pauwels van Caerden, 23 Oct. 1610; L'Hermite to the VOC directors, 10 Nov. 1610; L'Hermite to Willem van der Voort, 10 Nov. 1610).

Grotius explicitly referred to English interloping in the Banda Islands in the VOC petition which the Dutch Estates General received in July 1612. Compare Dutch National Archives, Grotius Papers, Supplement I, f. 392r. Grotius consulted a variety of sources for both the petition of July 1612 and the London negotiations of 1613: Grotius Papers, Supplement I, fol. 229-230 (deposition of Captain Dirck Allertsen, 12 Feb. 1612), 231-232 (deposition of Captain Arent Maertsen, 23 Feb. 1612), 233-234 (deposition of Hans Rymelandt and Dirck van der Aertbrugge, 23 Feb. 1612), 236-238 (the VOC directors' refutation of the EIC petition of Nov. 1611, largely based on a) an oral statement of Jan Pieterszoon Coen, junior merchant on the Fourth Voyage, and b) the journal of Hendrick van Berghel, Governor of Castle Nassau on the island of Neyra from August 1609 until April 1610), 552-563 ('Short Remonstrance' of Jacques L'Hermite Jr., 10 Aug. 1612), 588-604 (Meerman's summary of VOC correspondence, 26 Aug. 1612).

What could Grotius learn from the materials that the VOC directors had put at his disposal? Their own refutation of the EIC petition, along with the sworn statements of three Company servants, supplied him with the basic facts about English interloping in the Banda Islands. ‘Short Remonstrance’ was a complex policy document. L’Hermite mentioned Keeling and Middleton in the context of a comprehensive analysis of the VOC’s position in the Spice Islands, which he wished to change drastically. The head of the Bantam factory (1607–1611) was the first senior VOC official to proffer ethnic cleansing, combined with Dutch colonization, as a ‘remedy’ for the refractory Banda Islands. L’Hermite’s suggestions were actually implemented by Jan Pieterszoon Coen in 1621, which resulted in the death or exile of the majority of the Bandanese. It was no coincidence that hard-liners like L’Hermite and Coen considered the Company’s contracts with indigenous peoples completely useless for the purpose of establishing a monopoly of the spice trade.⁵⁷

Although Grotius made careful study of ‘Short Remonstrance’—his personal copy contains reading notes in his own hand—he dismissed both its analysis of the situation in the Banda Islands and its proposals for a drastic change in VOC policy. At the Anglo-Dutch colonial conferences, he emphasized again and again the special nature of the contractual relationship between the VOC and the Bandanese. Out of gratitude for the VOC’s military and naval protection, the Bandanese were obliged to sell their produce to the Company in perpetuity, to the exclusion of all other buyers. Unlike L’Hermite, Grotius never conceded the validity of the EIC’s contracts with the inhabitants of Pulo Run and Pulo Way, for example. Nor did he believe that conquest and colonization were the only sure means to establish a Dutch monopoly of trade in the Spice Islands. First-hand experience with English interlopers taught L’Hermite and Coen that the Company’s contracts with indigenous rulers were not worth the paper they were written on. Both men utterly failed to convince Grotius.⁵⁸

⁵⁷ Dutch National Archives, Grotius Papers, Supplement I, fol. 552–563 (‘Short Remonstrance’ of Jacques L’Hermite Jr., 10 Aug. 1612); *Opkomst van het Nederlandsch Gezag in Oost-Indië* Vol. III pp. 248–249, 380–394 (L’Hermite to the VOC directors, 28 Jan. 1608, and ‘Short Remonstrance’, respectively); Vincent C. Loth, ‘Armed Incidents and Unpaid Bills: Anglo-Dutch Rivalry in the Banda Islands in the Seventeenth Century’, *Modern Asian Studies* 29 (1995), pp. 705–740.

⁵⁸ *Ibidem*; Jan Pietersz. Coen: *Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander

Why did the voyages of Keeling and Middleton become such a problem for the VOC? Ironically, the Banda Islands were not part of Keeling's itinerary when he left Bantam on 1/10 January 1609. Instead, the English captain intended to follow in the footsteps of Henry Middleton and trade for cloves in the Moluccas. Yet adverse winds and tides forced him to set course for the Banda Islands, which he reached on 8/18 February 1609. He was well received by the VOC merchants at Neyra, who gave him permission to build a temporary house-cum-factory. The Englishman's arrival did not go unnoticed by the indigenous population. He first visited the villages of Labatacca on the island of Neyra and Urtatan and Lonthor on the island of Great Banda, and then proceeded to the outlying islands of Pulo Run and Pulo Ai. Everywhere he came, he ingratiated himself with indigenous chiefs (orankays) by presenting King James' letter of introduction, various gifts, and, most importantly, Cambay cottons, which they were happy to exchange for nutmeg and mace. Business was so brisk that he put Augustine Spalding in charge of a second trading post at Pulo Ai. His relations with the Dutch rapidly deteriorated as a result. VOC merchants on the island had no need for English competition, and, as Keeling put it, "sought to prevent me." Yet the real caesura was the arrival on 28 March/8 April of Pieter Willemszoon Verhoef, armed with fresh orders from the VOC directors to ensure the Company's 'actual possession' of the Banda Islands.⁵⁹

As noted in chapter four, Grotius had persuaded Their High Mightinesses that a treaty with Philip III of Spain and Portugal should guarantee, at the very least, the VOC's existing empire of trade, based on 'actual possession' (Victoria Castle at Ambon!) and its contracts and alliances with native princes. The VOC directors instructed Verhoef accordingly: his task was to create a favorable situation on the ground before the Twelve Years' Truce came into force, if necessary by building more Dutch fortresses in the Spice Islands. Verhoef brought a powerful fleet to the Banda Islands in order to execute the directors' orders to the letter. His aim was to negotiate a new contract with the Bandanese and obtain their approval

Vol. VI pp. 453–466 ('Discourse addressed to the VOC directors', 1 Jan. 1614); British Library, Additional Manuscripts 12.498 fol. 4r–5r, 10v–13r.

⁵⁹ Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* pp. 89–95; Purchas, *Hakluytus Posthumus* vol. II pp. 531–32.

for the fortification of Neyra. None of this was to the liking of the indigenous chiefs, who briefly contemplated playing off the Dutch against the English. Keeling, for his part, did everything to fan the flames of their discontent. He expressed his support in conversations with the Sabandar of Neyra and proposed “the formall delivering of Banda, to the use, and in the Name of his Majestie of England, our Sovereigne, before the Hollanders did land, or begin their purposed fort,” but nothing came of it. In his disappointment, Keeling blamed the chiefs for their “inconstancies.” It was with great reluctance, however, that they consented to the establishment of a VOC fortress at Neyra. They must have done so in the knowledge that Verhoef would have resorted to violence if they had refused his demands outright. Dutch soldiers did indeed wade ashore on 15/25 April 1609, and put the island’s population to flight. Work was begun on Nassau Castle nine days later.⁶⁰

The Bandanese chiefs pretended not to notice this affront to their sovereignty, and invited Verhoef for a meeting on 12/22 May 1609. He accepted their invitation to negotiate a new commercial agreement, and, at their explicit request, went to the meeting place without his customary retinue of soldiers. It was a trap, of course. The Bandanese ambushed and brutally murdered Verhoef in the jungle, along with a few members of his council of officers. Forty VOC servants shared his fate in the days following his assassination. When the news reached Pulo Ai, the Dutch factors there were in great danger of being massacred by the islanders. Yet Keeling took the merchants under his protection and kept communications open with the VOC fleet, which earned him the gratitude of its new commander, Simon Janszoon Hoen.⁶¹

⁶⁰ Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* pp. 89–95; Purchas, *Hakluytus Posthumus* vol. II pp. 531–32.

⁶¹ The Bandanese had demanded, and received, Dutch hostages prior to their parley with Verhoef, whom they put to death afterwards. When the Bandanese attacked Verhoef, the crews of the *United Provinces* and *Sun* came to his aid, but to no avail. The sailors who sought to rescue Verhoef were cut down by the Bandanese as well. Although the murder of Verhoef was a big setback for the VOC, it did not result in a Dutch withdrawal from the Banda Islands, something his assassins must have earnestly desired. Instead, the remaining members of the council of officers elected Simon Janszoon Hoen as their new leader. Officially, Hoen was just second-in-command to François Wittert, the Vice-Admiral, who automatically succeeded Verhoef at the latter’s death. Wittert was away in the Moluccas, however, which meant that Hoen called the shots in the Banda Islands. In revenge for

Keeling did not enjoy Hoen's favor for long. He was caught right in the middle by the dramatic escalation of the conflict between the Dutch and Bandanese. The chiefs of Great Banda claimed they had nothing to do with the events at Neyra and blamed everything on the local leaders. Yet they could not abdicate responsibility for the murder of two Dutch merchants at Great Banda in the days after Verhoef's assassination. It was a distinction without a difference for Hoen, who declared public war on the entire Bandanese people in revenge for the brutal killings of his countrymen. Nor was he slow to invoke the law of war in his dealings with Keeling. The Englishman received permission to trade with the village of Labatacca at Great Banda, but was told not to supply its inhabitants with any contraband goods, notably weapons, ammunition and food. Trade relations with Labatacca were henceforth governed by Western European rules for siege warfare, much to Keeling's chagrin, who, after many protestations, allowed his ship to be searched by the Dutch.⁶²

Visitations of the *Hector*, though demeaning, were the least of Keeling's worries. The war between the Dutch and Bandanese was in full swing, which made him suspect in the eyes of both friend and foe. A Gujarat merchant dissuaded Keeling from visiting the village of Cumber at Great Banda, for example, and warned him that its inhabitants "distrust my Intelligence with the Dutch." Ironically, the latter did not have much faith in Keeling either. Hoen openly accused him of sharing sensitive information with the enemy, allegedly by means of signaling flags. Keeling was also suspected of selling guns and ammunition to the Bandanese, which, in Hoen's view,

Verhoef's murder, Hoen declared war on the Bandanese, which he pursued with great vigor. See Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* pp. 94–105.

In his journal, Keeling made much of his intercession on behalf of the Dutch factors at Pulo Ai. His self-praise was perhaps immodest, but not without ground: Hoen himself went aboard the *Hector* on 20/30 May 1609 in order to thank Keeling in person. See Purchas, *Hakluytus Posthumus* vol. II pp. 534–535.

⁶² Purchas, *Hakluytus Posthumus* vol. II pp. 536–538.

As Opstall explains, factional strife was endemic in the Banda Islands even before the arrival of the Dutch. Villages on the island of Neyra belonged to the Ulisiwa faction, allied to the Sultan of Tidore, while villages on the island of Great Banda mostly belonged to the Ulilima faction, allied to the Sultan of Ternate and hence orthodox Muslim. The village of Urtatan at Great Banda was a neutral place, where the leaders of both factions met in order to negotiate with each other and with the Dutch. See Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* pp. 93, 97, 98, as well as 267–269.

accounted for the stiff resistance that the Dutch encountered in the villages Labatacca and Selamon. Although Keeling rejected these charges, he offered to relocate the *Hector* to “Laboan Java,” an anchorage in sight of Castle Nassau at Neyra, “where I might neither know their stirrings, nor could make signes to hurt them.” The proposal did not satisfy Hoen, who wanted to get rid of the Englishman altogether and sent him an ultimatum on 18/28 July 1609. If Keeling agreed to leave the Banda Islands in five days, he would receive compensation from the VOC for any outstanding debts that he might have among the natives.⁶³

Hoen’s ultimatum invoked the notions of *jus conquestus* and *dominium* in order to justify the VOC’s maritime jurisdiction in the Banda Islands. Since Dutch soldiers had conquered the island of Neyra, and since their commander was a deputy of Prince Maurice, a sovereign prince in his own right, Hoen believed that he was authorized to regulate trade and navigation in the waters surrounding Neyra. According to Western European rules for siege warfare, combatants could ban neutrals from the war zone, certainly if a battle was underway or an attack seemed imminent. As Hoen put it himself,

We, by vertue of our Commission, and Patent of his Princely Excellency [i.e. Prince Maurice], commaund the foresaid Generall [i.e. Keeling] to withdraw with his ship from our Road, out of our Fleet, and without the command of the Artillery of the Foretresse of Nassau, within the time of five daies, after the date hereof. And in that we have conquered, by force of Armes, the Iland Nera, so doe we also pretend, and hold the Roades thereabout depending, as the Road of Labatacca, &c. to bee under our commaund: and will not permit any (the time that we warre with the Bandenesses) to anchor there.⁶⁴

⁶³ Purchas, *Hakluytus Posthumus* vol. II pp. 538–539.

In revenge for Verhoef’s murder, the VOC fleet destroyed all Bandanese proas and Javanese junks encountered during the circumnavigation of Neyra on 20/30 May 1609. Dutch soldiers invaded Labatacca at Neyra on 5/15 July, landed on Neyra’s east shore two weeks later, and attacked Selamon at Great Banda the following day. These military expeditions ended largely in failure. See Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* pp. 99–101.

⁶⁴ Purchas, *Hakluytus Posthumus* vol. II pp. 539–543.

Hoen was no natural rights theorist by any stretch of the imagination, but he did justify his decision to exclude Keeling from the Banda Islands in terms that would have been very familiar to Grotius. Hoen never suggested that the Company enjoyed full ownership of the sea (*dominium maris*), for example, which was a contradiction in terms according to the writer of *Mare Liberum*.

By the time Grotius wrote *De Jure Belli ac Pacis* (1625), he had refined his views on freedom of trade and navigation. He admitted that certain well-defined parts of

Keeling denied that he had done anything wrong, of course, and denounced the ultimatum for containing "as many untruthes as lines." Yet he was soon forced to reconsider Hoen's offer. Spalding, his factor at Pulo Ai, informed him that the islanders would need at least twenty-five days to deliver a cargo of nutmeg and mace, and thus pay off their debts to him. Keeling realized that if he had to wait that long, he might not be able to reach Bantam, the easterly monsoon being almost spent. He decided to make the best of a bad bargain and accept the Dutch offer. Everything seemed to go the VOC's way in early August 1609: the Bandanese signed a new peace treaty and commercial agreement, while the Englishman accepted a letter of credit "payable at Bantam," which would reimburse him for "debts

the seas, like bays and straits, should be regarded as belonging to the land, and were liable to ownership (*De Jure Belli ac Pacis* II.3.8, 10). Grotius' instruments of choice for regulating trade and navigation on the high seas were navy squadrons in European waters, and privateers and armed merchantmen in the Atlantic, Indian and Pacific Oceans. He also recognized that a battery on land might command a part of the sea, i.e. the stretch of water adjoining it. None of this amounted to full ownership, however. As Grotius explained,

The Jurisdiction or Sovereignty over a Part of the Sea is acquired, in my Opinion, as all other Sorts of Jurisdiction; that is, as we said before, in Regard to Persons, and in Regard to Territory. In regard to Persons, as when a Fleet, which is a Sea-Army, is Kept in any Part of the Sea: In Regard to Territory, as when those that sail on the Coasts of a Country may be compelled from the Land, for then it is just the same as if they were actually upon the Land. (*De Jure Belli ac Pacis* II.3.13, as cited in Tuck, *The Rights of War and Peace* p. 107)

Hoen entertained remarkably similar notions of maritime jurisdiction. Keeling was told to move his ship out of the firing range of the Dutch fleet and Nassau Castle. Clearly, Hoen equated maritime jurisdiction with an expanse of water under Dutch control, as measured by the reach of a cannon ball, fired either from the land or from a ship. The guns of Nassau Castle must have been sufficient to cover Neyra harbor, and may have reached as far as "the Roades thereabout depending." In all likelihood, Hoen was vague on purpose when he mentioned the 'dependencies' of Neyra harbor. It allowed him to claim jurisdiction over larger stretches of Bandanese waters than were actually under his control.

Compare Tuck, *The Rights of War and Peace* p. 107; Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* pp. 29–34; Samuel Muller, *Mare Clausum: Bijdrage tot de Geschiedenis der Rivaliteit van Engeland en Nederland in de Zeventiende Eeuw* (Amsterdam, 1872) pp. 76–85; T.M. Fulton, *The Sovereignty of the Sea: An Historical Account of the Claims of England to the Dominion of the British Seas, and of the Evolution of the Territorial Waters; with special reference to the Rights of Fishing and the Naval Salute* (London, 1911) p. 156; Herbert F. Wright, 'Some Less Known Works of Hugo Grotius', *Bibliotheca Visseriana XVIII* (1928) pp. 161, 166, 194, 201–202; S. Groenveld, *Verlopend Getij: De Nederlandse Republiek en de Engelse Burgeroorlog 1640–1660* (Dieren: Bataafsche Leeuw, 1984) passim.

left at Banda.” Keeling weighed anchor in the middle of the month, never to return.⁶⁵

This was hardly the end of English interloping in the Banda Islands. Just six months after Keeling’s departure, the *Expedition* commanded by David Middleton cast anchor off Lonthor at Great Banda. Middleton immediately sent his skiff ashore, yet was rebuffed by the Lonthorese, who warned him that the Dutch were determined to prevent outsiders from trading there. Fifteen Javanese junks had already been forced to enter the road of Castle Nassau, where the vessels were kept “within musket shot of their ordnance.” Hendrik van Berghel, Governor of Castle Nassau, and his lieutenant, Willem van der Voort, had the same procedure in mind for the *Expedition*.⁶⁶

Yet its commander took a lofty tone with the Dutch delegation that came on board and refused to show his commission. Middleton declared that he had been sent expressly by the King of England and Prince of Wales to fetch spices from the Bandas, and that he would ride at anchor wherever he pleased. This was not exactly the answer that Van Berghel’s emissaries had expected, “so they returned to the Castle in a great rage.” Meanwhile, Middleton made overtures to the inhabitants of Pulo Run and Pulo Ai, who had not been included in the peace treaty of 1/10 August 1609 and still considered themselves at war with the Dutch. He assured them that “the Hollanders and I were like to be enemies,” and that he would find a way to “get their spice aboard.” Yet the Governor of Nassau Castle was nothing if not persistent and sent the Englishman an ultimatum. Middleton could either relocate his ship to an anchorage commanded by Nassau Castle or let it be hauled there “perforce.” The commander of the *Expedition* demurred:

I knew full well, that our nations were friends in Europe, & for us to be enemies among the heathen people, it were not good, being Christians.

If the Dutch pretended to be in actual possession of the Banda Islands, this was all the more reason for Middleton to claim the free-

⁶⁵ Purchas, *Hakluytus Posthumus* vol. II pp. 539–544.

Initially, Keeling may well have dismissed the ultimatum because it was a bit too truthful. Purchas suggested as much in his narrative account of Keeling’s voyage. Compare *Hakluytus Posthumus* vol. II p. 542: “[t]hen followed many presumptions of his assistance of the Bandanese, by English Powder and Munition, by signes, &c. which I omit.” According to Opstall, Purchas distorted the text of the ultimatum in other ways as well. Compare *De Reis van de Vloot van Pieter Willemsz Verhoef* p. 101.

⁶⁶ Purchas, *Hakluytus Posthumus* vol. III pp. 94–95.

dom of trade and navigation that English merchants already enjoyed in the United Provinces. Again Van Berghel's emissaries left the *Expedition* empty-handed.⁶⁷

Fearing retaliation, Middleton prepared to land ordnance at Great Banda, but then discovered that his ship was riding on foul ground. This unpleasant discovery induced him to send a conciliatory letter to Nassau Castle on 7/17 February 1610. His messengers returned with the disturbing news that Van Berghel still demanded full compliance with the ultimatum, otherwise he would attack the *Expedition* with a fire ship and three men of war. Middleton immediately decided to go to the Castle himself, where he received a courteous welcome. Once in the Governor's Chamber, he explained that he was not a pirate and read the first line of his commission, only to fold it up again. He adamantly refused to show the entire document to his Dutch interlocutors, "so there passed words betweene us, some sharpe and some sweet." Van Berghel nevertheless made every effort to befriend Middleton and called for wine after a while. A joint toast was followed by a tour of Nassau Castle. The commander of the *Expedition* was impressed by what he saw. The fortress seemed "very well furnished with armor and great store of munition." Nothing more was needed to persuade him to bring the ship into the road.⁶⁸

His compliance with Van Berghel's ultimatum did not mean that Middleton had given up all hope of trading in the Banda Islands. The contrary was true, in fact. First he made an unsuccessful attempt to bribe the Governor with one thousand pounds sterling and the gold chain that he wore around his neck. Then he let it be known that he would leave Neyra road for an unknown destination. Middleton was indeed a master of deft dissimulation and boisterous bravado. The Dutch let him go even when it became clear that the *Expedition* was headed for Pulo Ai. Adverse currents prevented him from reaching the island and forced him to sail to Ceram instead, where he cast anchor off the southern coast.⁶⁹

Middleton made a virtue of necessity. After his arrival at Ceram, he used a pinnace, the *Hope-Well*, to travel back and forth between the *Expedition* and Pulo Ai. He was not averse to a little intrigue,

⁶⁷ Ibidem pp. 95–96.

⁶⁸ Ibidem pp. 97–98.

⁶⁹ Ibidem pp. 98–100; Dutch National Archives, VOC 1053, unfoliated (Willem van der Voort, Governor of Nassau Castle, to Jacques L'Hermite, 2 June 1610).

and encouraged the inhabitants of Pulo Ai to go over to Neyra and kill some Dutch soldiers there, just to make sure that “they durst not stirre out of the castle.” The approach seemed to work, to Middleton’s delight. Before long, the natives had captured a hill overlooking the Dutch stronghold at Neyra, “from whence they shot into the castle, which troubled the Hollanders much.” As a result, Middleton could make nine crossings to Pulo Ai without fear of the Dutch pinnaces, which stayed close to the besieged fortress.⁷⁰

Middleton’s voyages in the *Hope-Well* were highly profitable, but not without danger. At one point, his pinnace was shipwrecked on the coast of Ceram, for example. Middleton and his crew survived with little more than the shirts on their backs. The shipwreck was nearly fatal for the English factors at Pulo Ai as well. Since Middleton stayed away longer than expected, the Bandanese grew mistrustful of the English factors and began to abuse them, saying

that I was gone in the ship, and left them in the cuntry as the Hollanders did, and would come with a Fleete as they have done, and take their cuntry from them.

Middleton returned to Pulo Ai just in time to prevent serious bloodshed. After a conversation with the Sabandar, he graciously accepted the natives’ apologies. Middleton became good friends with the islanders, in fact, and finally took leave of them “in a most loving manner, giving them several farewell gifts.” The *Expedition* arrived back in Bantam on 9/19 October 1610, filled to the brim with nutmeg and mace.⁷¹

The commander of the *Expedition* realized that he had been in luck. The Dutch were “starke madde” at the fact that his vessel was chock-full of spices, while the *Rotterdam* and *Hoorn* returned to Bantam “halfe laden.” Worse, the warships had never even gotten close enough to Pulo Ai to attack the island, which they could have captured easily, “all able men being gone to the warres.” Once out of Neyra road, the *Rotterdam* and *Hoorn* had been becalmed and drifted south of the Banda Islands, accompanied by all the Dutch pinnaces, which were needed to protect them against Bandanese war proas.

⁷⁰ Purchas, *Haklytus Posthumus* vol. III p. 103; Dutch National Archives, VOC 1053, unfoliated (Pieter Bahuel to the VOC directors, 1 June 1610, and Van der Voort to L’Hermite, 2 June 1610).

⁷¹ Purchas, *Haklytus Posthumus* vol. III pp. 104–110.

For two days the crews of the *Hoom* and *Rotterdam* had done "what they could to come backe," but to no avail. The warships' disappearance from the Banda Islands had assured Middleton of a steady and undisturbed trade with the inhabitants of Pulo Ai. The richly laden *Expedition* departed from Bantam on 16/26 November 1610 and reached England the following summer.⁷²

The successes of Keeling and Middleton did not induce the EIC directors to rest on their laurels. On the contrary, they bitterly complained about the captains' mistreatment by VOC servants in their petition to Salisbury of early October 1611. Their aim was to convince the Lord High Treasurer that Dutch harassment could not be accidental, but must be intended to "wholye debarre your said suppliants from the said trade." Keeling's voyage was cited as a case in point. Had not the *Hector* been subjected to Dutch visitations even when "going for fresh water and retourning"? Worse, its captain had not been permitted to collect his debts from the Bandanese, but was told instead to leave "with a peremptory commaund." Keeling had submitted "thorough necessitye" and departed "without his lading, or any further trade." According to the petition, Dutch intimidation tactics had reached new hights, or rather depths, by the time of Middleton's arrival in the Banda Islands. The commander of the *Expedition* had been treated to "many reprochfull, insolent speches," which denied him "all trading in those parts." True, he had managed to avoid outright banishment from the Banda Islands by establishing a factory elsewhere, in "Islands neare adjoyning." Yet he had done so at great peril. The Dutch had made several attempts "to surprize, consume by fire, and cut off by any indirect meanes, both shippe, men, and goods." This incendiary mix of fact and fiction assured the EIC a favorable response from the English government. It badly misfired, however, when the petition ended up in the hands of the VOC directors. The mighty Amsterdam and Zeeland Chambers

⁷² *Ibidem* pp. 111–115.

Jacques L'Hermite, head of the Dutch factory at Bantam, was disturbed at Middleton's success and blamed Willem van der Voort, who had succeeded Van Berghel as Governor of Nassau Castle. In L'Hermite's view, Van der Voort should have dealt firmly with Middleton and settled for nothing less than his removal from the Banda Islands, whether by fair means or foul. Compare Dutch National Archives, VOC 1053, unfoliated (L'Hermite to the VOC directors, 4 Sept. 1610; L'Hermite to Paulus van Caerden, 23 Oct. 1610; L'Hermite to Willem van der Voort, 10 Nov. 1610).

replied in kind by preparing “a whole volume of recriminations,” which shed a rather different light on English interloping in the Banda Islands.⁷³

The Gentlemen XVII wrote to the Dutch Estates General in early March 1612 to clear themselves of the EIC’s accusations. They were eager to maintain good relations with the English, “being friends and allies of these United Provinces,” and had instructed their personnel accordingly. Yet the VOC could not permit English trade in areas commanded by the Company’s nine fortresses, where it alone enjoyed “free trade” thanks to “express contracts with kings, peoples and nations.” The situation in the East Indies was rather different from the way it appeared in the EIC petition. If anything, the English captains had harmed the VOC, instead of the other way around. They had defamed the Dutch “as a nation without a head and rebels against their king,” while supplying guns and ammunition to the Iberian enemies and “some Indians.” The VOC directors enclosed three sworn statements as evidence, along with a point-by-point refutation of the EIC petition. The originals are no longer extant—they must have been part of the “volume of recriminations” which the Company sent to Winwood and the Dutch Estates General. Copies have survived in the Grotius Papers at the Dutch National Archives. This material allowed for only one interpretation: Keeling and Middleton had ‘rewarded’ Dutch courtesy with underhanded arms deliveries to a small group of desperate rebels, while the majority of the Bandanese had rejected their advances and wished to remain on good terms with the VOC.⁷⁴

Captain Dirck Allertsen recalled in his deposition that he had offered Keeling emergency rations when the latter arrived in Jakarta on 21/31 August 1609. Keeling had gratefully accepted the offer and sent his quartermaster along to fetch the poultry. This act of charity was not just a matter of personal virtue. In Allertsen’s expe-

⁷³ Eysinga, *The Colonial Conferences Bibliotheca Visseriana* Vol. XV pp. 43 (quotations), 47–58.

⁷⁴ *Ibidem* pp. 53–54; Dutch National Archives, Grotius Papers, Supplement I, fol. 229–230 (deposition of Captain Dirck Allertsen, dated 12 Feb. 1612), 231–232 (deposition of Captain Arent Maertsen, dated 23 Feb. 1612), 233–234 (deposition of Hans Rymelandt and Dirck van der Aertbrugge, dated 23 Feb. 1612), 236–238 (refutation of the EIC petition of Nov. 1611, based on an oral statement of Jan Pieterszoon Coen, junior merchant in the fleet of Verhoef, and the journal of Hendrick van Berghel, Governor of Castle Nassau at Neyra, August 1609–April 1610).

rience, the English had always been treated as “good neighbors and allies” by VOC servants. Yet the reward for “all these good turns” had been arms deliveries to the Bandanese, confirming the rebels in their evil ways, as the English were well aware. Keeling’s flag signals had even notified villages at Neyra and Great Banda of imminent Dutch attacks, “so that the enemies were almost always forewarned.” Allertsen claimed to have this on the authority of an indigenous eyewitness, in fact.⁷⁵

Merchant Dirck van der Aertbrugge corroborated Allertsen’s allegations. He stated in his deposition that Keeling’s secret communications with the Bandanese were common knowledge in Southeast Asia. English guns and ammunition had been found in the village of Labatacca, for example. Keeling was also to blame for the heavy casualties taken by the VOC’s invasion force in the sense that he had, quite literally, signaled its intentions to the Bandanese. According to Van der Aertbrugge, this was the reason that English boats and sloops had been subjected to visitations. Keeling had finally been asked to leave the Banda Islands, there being no end to his intrigues. Van der Aertbrugge and Captain Arent Maertsen could testify, however, that the Englishman had been fully reimbursed for the bad debts he had left behind, which amounted to four thousand reals of eight. This princely sum did not include the one hundred and fifty reals of eight that been paid for the English house at Neyra. Allertsen contended that Keeling had voluntarily sold it to the VOC on 4 July 1609, “saying that his trade in the Bandas was finished anyway, due to the arrival of the Dutch.”⁷⁶

Junior merchant Jan Pieterszoon Coen could not agree more. It was his opinion that Keeling had traded just as freely in the Banda Islands as the Dutch and that the Englishman’s difficulties had been entirely of his own making. Interestingly, Coen responded directly to the EIC petition of early October 1611. His refutation of the English complaints must in fact be regarded as more authoritative than the sworn statements of Allertsen and Van der Aertbrugge. Unlike these deponents, Coen had actually been in the Banda Islands at the time of Keeling’s sojourn there. Coen was the only one, for example, to mention the lenient policy that had prevailed towards

⁷⁵ Dutch National Archives, Grotius Papers, Supplement I, fol. 229v.

⁷⁶ *Ibidem* f. 230r, 231r, 233v, 236v.

Keeling before the murder of Verhoef. He pointed out that the English had not been hindered in their trade initially, but had been permitted to “engage in it freely, using cottons and specie, provided they would not supply ammunition and victuals to the Company’s enemies.” Yet Keeling had quarreled with his own bread and butter by violating the rules of the game. English guns and ammunition, including four kegs of gunpowder, had been discovered in Labatacca, while “several soldiers and sailors” had accused the Englishman of alerting the Bandanese to Dutch attacks “by means of flares and fireworks at night.” Hence Hoen had told Keeling to leave on 17/27 July 1609, and again the following day. He had “obstinately” refused at first, but then changed his mind and promised to leave on 2/12 August, provided the Dutch agreed to take over his outstanding debts, which they did. Apart from this arrangement, so Coen added disingenuously, Keeling had never suffered any delay or hindrance in selling his wares and collecting his debts, “as his merchants did not leave Great Banda until his ship set sail.”⁷⁷

Coen had even less sympathy for David Middleton than for William Keeling. In all likelihood, it was Coen’s refutation of the EIC petition that Grotius used as his source for reconstructing the second English visit to the Banda Islands, which, incidentally, received no mention in any of the sworn statements that were at his disposal. It goes without saying that Coen cleared the VOC of all charges leveled against it by Middleton and his employers. He denied that Middleton had been diverted to the “small islands” of the Banda group because of Dutch “insolence.” True, Van Berghel and Van der Voort had refused to grant trading privileges to the Englishman and forced him to anchor in Neyra road. Yet they had acted on the authority of the VOC contract of 1/10 August 1609, whereby the Bandanese had “excluded all European nations from the [spice] trade and transferred the sovereignty thereof to the Dutch.” Pretending to try his luck elsewhere, Middleton had left Neyra road again and sent a sloop to Pulo Ai, carrying his merchant Augustine Spalding, even though the island was a signatory of the “aforesaid contract.” After anchoring the *Expedition* at Ceram, its commander had freely made voyages to Pulo Ai and obtained spices there. His trade goods

⁷⁷ Opstall, *De Reis van de Vloot van Pieter Willemsz Verhoef* p. 103; Dutch National Archives, Grotius Papers, Supplement I, fol. 236v.

were far from innocuous. According to Coen, he had sold the Bandanese “muskets, firelocks, morions and two kegs of gunpowder.” Nor had English trade been limited to the outlying Banda islands. For Spalding had allegedly sent a Gujarati merchant to the village of Lonthor on Great Banda to buy spices for the English. It could not be proven that the Dutch had conspired to obstruct this trade. No attempt had ever been made to surprise Middleton’s men or set fire to his ship. Coen concluded therefore that the EIC directors had indulged themselves in slanderous and wrongful accusations.⁷⁸

Predictably, the English negotiators were the first to mention the voyages of Keeling and Middleton at the London conference of 1613. In their second memorandum, they conceded that Dutch obstruction of English trade did not result from “the ill affections of particular persons,” but feigned surprise at Grotius’ contention that the VOC had “a right to the sole trade of spices in the cheife places in the East Indies.” The English negotiators were smart enough to realize that “where there is a right, there followeth consequently a maintenance of the same”—a key element of Grotius’ rights theories, in fact. On this point, the VOC spokesman could hardly quarrel with his English hosts. Yet the grave injustices which Keeling and Middleton had ostensibly suffered in the Banda Islands turned out to be rather minor incidents on closer inspection. According to Coen’s refutation of the EIC petition, which Grotius consulted, the English captains had grossly abused Dutch friendship, in fact. For their part, the English negotiators still tried to paint the darkest possible picture. The Dutch factors at Pulo Ai had allegedly prevented English trade by bribing the natives with “twelve thousand dollars.” VOC warships had supposedly “shot at Capt. Keeling’s boat” in order to enforce a visitation of the *Hector* by Company officials. Interestingly, the English negotiators did not have much to say about Middleton’s interloping in the Spice Islands, except for two unproven allegations. Cornelis Matelief Jr. was said to have fired at “David Middleton for no other cause than that he rid at Tydore.” This was physically impossible: Matelief had left the Moluccas on 26 June 1607, six months before Middleton’s arrival there. The English negotiators also accused Verhoef’s successor in the Banda Islands, Simon Hoen, of having roamed the streets of Bantam with “a hundred

⁷⁸ Dutch National Archives, Grotius Papers, Supplement I, fol. 236v, 238r.

armed men” in order to “picke a quarrel with Capt. Middleton and his Company and to cut them all in peeces.” This was once again a physical impossibility: Hoen and Middleton had never been in Bantam at the same time.⁷⁹

In his reply to the English memorandum, Grotius did not try to clear the VOC of the charges levied against it by exposing their factual inaccuracies. He did not have sufficient information at his disposal in order to do this effectively. Grotius opted for a two-pronged attack instead. First he put the VOC’s incipient monopoly of the spice trade in (what he considered) its proper historical context, and then confronted the English negotiators with some incriminating evidence about Keeling and Middleton, based on the sworn statements of VOC servants and Coen’s refutation of the EIC petition. In his reply, Grotius recalled that eleven years earlier, “when Andreas Furtado [de Mendoza] was ready to seize upon the Bandanese with a royall fleete,” the latter had sought Dutch assistance against the Portuguese and happily signed away their spices to the VOC. According to Grotius, the treaty of alliance “was divers tymes ren[ew]ed afterwards.” Yet he could not deny that the VOC’s relations with the Bandanese had deteriorated over time. The Bandanese had shown themselves “very treacherous” and “the savagest of those barbarians.” A Portuguese conspiracy was nevertheless to blame for all the setbacks that the Company had suffered in the Spice Islands. Grotius explained to the English negotiators that “certaine Bandaneses” had been so corrupted by the Portuguese as to “fall away from our fellowship,” resulting in Verhoef’s murder. The chiefs of the “better part of the Bandaneses” had allegedly urged the Dutch to take up arms against the perpetrators, lest they should “betray those islands to the Portugalls.” Keeling had thrown a spanner in the works. The Bandanese rebels had received early notice of Dutch attacks thanks to “certaine tokens of fire,” while English arms and ammunition had been found in the village of Labatacca after its capture. Things had gone from bad to worse at the arrival of David Middleton six months later. It was not just that “certaine Bandaneses were entised by the English to fall away,” but that Middleton provided them with “muskets,

⁷⁹ British Library, Additional Manuscripts 12.498, fol. 6v; Stapel *Geschiedenis van Nederlandsch Indië* Vol. III p. 56; Opstall, *De Reis van de Vloot van Pieter Willemisz Verhoef* pp. 44–45, 87–91; Foster, *England’s Quest of Eastern Trade* pp. 198–199, 202–205.

handguns, helmets and powder,” something which Grotius deemed “too near the nature of hostilitie.” In spite of these provocations, the VOC servants had never attempted anything “carrying shewe of emnitie.” They had omitted no opportunity to do “all kind of good offices,” and had lavishly entertained their EIC colleagues at Jakarta and other places.⁸⁰

The English negotiators attached no credence to Grotius’ idealized account of the situation in the Banda Islands and resented his refusal to propose any kind of trade-sharing agreement between the VOC and EIC with respect to the Spice Islands. They tried to decide the London conference in their favor by abruptly announcing in their third memorandum that they did not expect “a further reply from you.” In other words, they referred the matter back to the King and the Privy Council. The Dutch delegation feared, with good reason, that the English negotiators would submit an uncharitable report to the English monarch. There was nothing for it but to have Grotius restate the VOC’s position in a letter addressed to the King himself. The English negotiators were not to be outfoxed. They obtained a copy of Grotius’ letter of 3/13 May 1613, and added their own caustic marginalia. While Grotius justified Dutch trade in the Spice Islands on the basis of “the consent and good liking of

⁸⁰ British Library, Additional Manuscripts 12.498, fol. 12r.

It is unlikely that Grotius was aware of the terms of each and every Dutch contract with the Bandanese. His interpretation of these agreements departed quite a bit from their actual contents, in fact. The contracts of 23 May 1602, 17 June 1602, and 13 July 1605 did not grant the VOC a monopoly of trade in the Banda Islands, but merely the right of preemption. If Dutch factors failed to deliver the victuals, cottons and specie requested by the Bandanese, they were entitled to sell their nutmeg and mace to other merchants. Nor should the early contracts be understood as an exchange of military and naval protection for trading privileges. To be sure, each signatory was obliged to assist the other against external enemies. Yet it was the responsibility of the Bandanese to protect Dutch factors against a possible Portuguese invasion force, not the other way around. Wolphert Harmenszoon and Steven van der Haghen made this stipulation in order to offer some protection to Dutch merchants who remained in the Banda Islands after the departure of their fleets. The agreement of 23 May 1602 implicitly conceded the weakness of Dutch naval power. Wolphert Harmenszoon was reluctant to promise the Bandanese anything in excess of “[his] small capacity,” notwithstanding the fact that the Portuguese *armada* had already ravaged large parts of Ambon. Compare Heeres, ‘Corpus Diplomaticum Neerlandico-Indicum’ (Part I, 1596–1650) pp. 23–26 (Wolphert Hermanszoon’s contracts with the Bandanese, 23 May and 17 June 1602), 36–41 (Van der Haghen’s contract with the Bandanese, 13 July 1605).

certayne Indians,” the English negotiators detected “no more willingnes in the inhabitants to endure their [i.e. Dutch] government then was formerly by the Portugals.” Why else should the natives engage in hostilities against the VOC, “both by killing the people and poisoning the waters,” as Keeling had testified before the High Court of Admiralty? Nor did the English negotiators appreciate Grotius’ argument that a) the Bandanese, “with whome Your Ma.ty’s subjects do nowe abide in saftie,” had been delivered from Iberian bondage by the VOC, and that b) English trade in the Spice Islands would not have been possible without it. They retorted that Keeling had built “a house & factory at Banda without feare of the Portugals,” only to see it demolished by the Dutch. His sole reward had been “a constrained and unworthy recompence.” Both Keeling and Middleton had been subjected to “many reproachfull speeches & much disgrace” by VOC servants, whereupon they had been “put from Banda by the Dutch.” What really infuriated the English negotiators was Grotius’ refusal to acknowledge that he had contradicted his own plea for freedom of trade and navigation. They had quoted *Mare Liberum* in their third memorandum to prove exactly that. In his letter, Grotius made a point of defending the integrity of his own natural law and natural rights theories. What had already been sold to one person, could not be sold to another under the pretext of freedom of trade. As he explained to James I, “[t]he libertye of the law of nations is of force to contract and not after the contract is made.” Even though his arguments were not to the liking of “Your Ma.ty’s commissioners,” he still considered it “very honest to defend oppressed people” and to accept in return goods or services “least burthen-some unto them.” The remark was like a red rag to the English negotiators, who trenchantly noted in the margin that “inviolable contracts” were a euphemism for Dutch violence and oppression. According to the English negotiators, indigenou peoples committed “no injustice” if they broke a contract signed under duress and against their will. Grotius ended his letter to the King on a familiar note. He repated that “neither humanity nor piety” permitted the Dutch to relinquish “the defence of those distressed nations against the Spaniard.” It drew another sharp comment from the English negotiators. In their view, the inhabitants of the Spice Islands had been no more “distressed” by the Spanish than “they are nowe by Hollanders.” This much was clear from the affidavits of Middleton

and Keeling “under the seal of the Admiralty.” Copies thereof had been sent to Grotius, in fact.⁸¹

The VOC spokesman had been smart enough not to mention these affidavits in his letter to James. He must have realized that he could gain very little from contesting the sworn statements of EIC servants, if only because it would be uncivil towards the King, who acted as an honest broker. Grotius had every reason to humor the monarch in his letter, and refrain from personal attacks on EIC servants. It is doubtful, however, that he swallowed the affidavits whole. Coen’s refutation of the EIC petition, along with the sworn statements of VOC servants, told a rather different story. The reputations of Keeling and Middleton—never very high in VOC circles—did not survive the disclosure of their arms trade with the Bandanese. In other words, there were only a limited number of sources that Grotius and the VOC directors could consider reliable and trustworthy. Does it follow, then, that Grotius was justified in doggedly defending the VOC as the ‘savior of the Orient’ at the Anglo-Dutch colonial conferences? It may have been simply a matter of convenience for him to stick to the familiar notion that the VOC championed native liberty in the face of Portuguese aggression. Grotius would have found it difficult to take issue with the VOC’s heroic self-image, which he had done so much to propagate in *De Jure Praedae* and *Mare Liberum*. Yet it does not alter the fact that, even before the start of the London conference, Grotius had access to documents which threw a very different light on the dramatic developments in the Banda Islands, and which were, in fact, approved by the VOC directors.

The countervailing evidence at Grotius’ disposal questioned the comforting idea that the Bandanese sold all their spices to the Company out of sheer gratitude for their liberation from Portuguese tyranny. ‘Short Remonstrance’ reached the opposite conclusion, in fact. Its author did not advocate a dovish VOC policy, let alone one that placated the English. Instead, Jacques L’Hermite Jr. tried to persuade his superiors to adopt a policy of outright repression and ethnic cleansing in the Banda Islands. His suggestions were warmly applauded by the Delft VOC director Dirck Meerman, who prepared a summary of all the correspondence received from Asia for the

⁸¹ British Library, Additional Manuscripts 12.498, fol. 14r, 15r–v, 17v–19v.

meeting of the Gentlemen XVII in August 1612. As noted earlier, copies of both documents are extant in the Grotius Papers at the Dutch National Archives. L'Hermite's acute analysis of the situation in the Banda Islands and Meerman's enthusiastic endorsement will be discussed first, followed by a reconstruction of Grotius' cautious and hesitant response.⁸²

Its title notwithstanding, 'Short Remonstrance' was meant to be a comprehensive review of the VOC's position in the East Indies, which covers fourteen pages in a modern source edition. L'Hermite made important suggestions for a) the future location of a VOC rendezvous in Southeast Asia, b) possible changes in the mandate of the Governor General, and c) a hard-line policy in the Spice Islands. No friend of indigenous peoples, L'Hermite was nevertheless critical of the Company's past dealings with the Bandanese. He admitted, for example, that Pulo Ai and Pulo Run were only mentioned in the Dutch text of the peace agreement signed by Hoen and the Bandanese on 1/10 August 1609. The outlying islands had not been represented in the negotiations, and observed the treaty only in the breach. The inhabitants of Pulo Run and Pulo Ai had not resumed their spice deliveries to Castle Nassau, for example, unlike the other Bandanese. Instead, they had been quick to grant trading privileges to David Middleton, which suggested some prior "agreement or contract" with the English. This did not mean that L'Hermite recognized the English claims to the Spice Islands or favored any further appeasement of the Bandanese. In his view, peace treaties were wasted on the natives, who had broken them at will and primarily used them to prepare for the next round of hostilities. He advised the VOC directors to send "a significant force" to the Banda Islands in order to "conquer them completely." Only then could the VOC hope to make a real profit from the trade in nutmeg and mace. It would be unwise to engage in any kind of peace negotiations before the Bandanese had been brought to heel or "extirpated entirely." Ethnic cleansing was indeed the Company's safest bet, given the fact that "this villainous monster could never be bridled as much as would

⁸² Dutch National Archives, Grotius Papers, Supplement I, fol. 552–563, 588–604; De Jonge, *Opkomst van het Nederlandsch Gezag in Oost-Indie* Vol. III pp. 380–394; British Library, Additional Manuscripts 12.498 fol. 4r–5r, 10v–13r, 17v–19r; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 168–215, 262–366; Grotius, *The Free Sea* ed. Armitage pp. 10–13, 58, 77–78.

be desirable." Under no circumstances should the Banda Islands be resettled with "other Indians, from whatever nation they might be." L'Hermite feared, with some justification, that Bandanese exiles would find ways to incite Asian colonists against the VOC. Only Dutch planters (*perkeniers*) could assure the Company of a regular supply of spices. Together with their families, they would do all the work on the nutmeg and mace plantations, sell their spices to the VOC for a reasonable price, and receive victuals in return. The establishment of a full-fledged Dutch commonwealth in the Banda Islands should benefit the Company in other ways as well. It would mean a reduction in military expenditures, for example—the planters could easily double as soldiers, and, eventually, supply a large pool of craftsmen, who could build or repair any kind of VOC vessel, be it ship, galley or sloop. L'Hermite considered his plantation scheme the best solution for the Banda Islands' endemic problems. Yet there was an alternative if conquest and colonization proved unacceptable to the Gentlemen XVII. In that case, L'Hermite advised against building more fortresses in the Spice Islands and proposed a selective slash-and-burn policy instead. A targeted uprooting of nutmeg and clove trees would reduce the volume of spices that reached the European markets, which should have a positive effect on prices there. In addition, it would become much more difficult for recalcitrant natives and European interlopers to undermine the VOC's incipient monopoly of the spice trade. As the nineteenth century Dutch historian J.K.J. de Jonge already noted, L'Hermite's suggestions would be implemented by the Governor Generals of the 1620s and 1630s, and remain the cornerstone of Dutch colonialism in the Banda Islands until the VOC's demise a century and a half later.⁸³

Although the Gentlemen XVII would disavow Jan Pieterszoon Coen's brutal assault on the Banda Islands in 1621, they were hardly averse to the proposals for conquest and colonization that they received from L'Hermite in late August 1612. VOC director Dirck Meerman gave the Gentlemen XVII a quick run-through of 'Short Remonstrance' in his summary of VOC correspondence. "It was the author's advice," so Meerman explained, "to punish, conquer and partly extirpate the Bandanese." Always practical, L'Hermite gave "some useful hints for accomplishing the same and resettling [the

⁸³ De Jonge, *Opkomst van het Nederlandsch Gezag in Oost-Indie* Vol. III pp. 315–316, 385–87, 389–91.

islands] with our own people.” Meerman was deeply impressed with ‘Short Remonstrance’, which he had read and reread with great pleasure. He had found it “so pertinent [and] full of arguments, perfect analyses of all past mistakes and necessary remedies” that he thought it could serve “as a comprehensive guide” for his fellow VOC directors, showing “all East Indian issues that demanded improvement.” In Meerman’s view, the Gentlemen XVII could do worse than to rely on the “experience, judgement and clear understanding” of the author of ‘Short Remonstrance’.⁸⁴

Meerman’s fulsome praise induced Grotius to study ‘Short Remonstrance’ carefully, as shown by his reading notes. Yet it is unclear what his reaction was to L’Hermite’s proposals. The absence of a recorded response is not unprecedented, of course. His verdicts on Schotte’s ‘Discours’ and Matelief’s memorandums have not come down to us either. Grotius’ reading of ‘Short Remonstrance’ must therefore be reconstructed on the basis of his reasoning at the London conference, which, admittedly, involves some speculation. A few points can be made nonetheless. First of all, ‘Short Remonstrance’ provided Grotius with evidence for the depravity of the Bandanese, which he emphasized again and again in the negotiations. L’Hermite’s devastating critique of the contract of 10 August 1609 invalidated an important plank in Grotius’ argument. The inhabitants of Pulo Run and Pulo Ai were perfectly free to trade with Keeling and Middleton if, as L’Hermite contended, they had refused to make a treaty with

L’Hermite’s colonization scheme did not fall on deaf ears, judging by the minutes of the Gentlemen XVII. A high-ranking VOC delegation, consisting of Jan Janss. Carel of Amsterdam, Everard Becker of Zeeland, Daniel van der Lecq of Rotterdam and Dirck Gerrits. Meerman of Delft, met with Jacques l’Hermite Jr. in the middle of August 1612 to discuss the possibility of sending Dutch colonists to the East Indies. The day after he submitted ‘Short Remonstrance’, L’Hermite received an appointment as adviser to the Gentlemen XVII. Mindful of his recommendations, the Gentlemen XVII changed their instructions for the Governor General when they met on 18 February 1613. Compare Dutch National Archives, VOC 100, unfoliated (minutes of the meetings of the Gentlemen XVII on 15, 16, 21 Aug. 1612 and 18 Feb. 1613).

Jan Pieterszoon Coen advocated the conquest and colonization of the Bandas along the lines of L’Hermite’s proposal in his famous ‘Discourse addressed to the VOC directors’ of 1 January 1614. Compare *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. VI pp. 451–474, in particular pp. 464–466.
⁸⁴ *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. IV pp. 536–551, particularly 548–550 (Gentlemen XVII to Coen, 14 April 1622); Dutch National Archives, Grotius Papers, Supplement I, fol. 603v (quotations).

Hoen in the first place. It made nonsense of Grotius' charge that the EIC servants abetted the 'crimes' of the Bandanese (i.e. breach of contract). Even if Grotius wrongfully accused Keeling and Middleton, it is possible to sustain that he had plenty of other reasons for justifying the VOC's monopoly of trade in the Spice Islands. Regardless of the English contracts with the inhabitants of Pulo Run and Pulo Ai, Grotius could—and, in fact, did—argue that, as a matter of equity, the VOC deserved to be compensated for the services it had rendered the Bandanese. As Grotius pointed out to the English negotiators, there was a big difference between the simple trade of the EIC and the armed trade of the VOC. Since the Dutch company had spent much time and money defending the inhabitants of the Spice Islands from outside enemies, it could claim a greater reward—a monopoly of trade, for example—than its English counterpart, which had limited itself to strictly commercial transactions with the islanders. As for L'Hermite's proposal for the possible conquest and colonization of the Banda Islands, Grotius may well have dismissed it as unlikely to be realized before the London conference and hence irrelevant to the negotiations. Possibly, Grotius and the VOC directors entertained the hope of avoiding such drastic measures altogether if they could persuade the English to stay away from the Spice Islands in the future. Yet it is hard to avoid the conclusion that, either way, the Bandanese and English stood to lose all or some of their *ius commercii* (right to trade), a liberty which Grotius had once predicated of the entire human race in *De Jure Praedae*.⁸⁵

⁸⁵ It is possible to put a different construction on the contractual relationship between the VOC and Pulo Ai and Pulo Run. If necessary, Grotius could have contested the validity of the contracts that Keeling and Middleton made with the outlying islands on the basis of a treaty concluded by VOC commander Steven van der Haghen in July 1605. Since this treaty contained no expiration date, it might be argued that it applied to Pulo Ai and Pulo Run even after August 1609, although Hoen's treaty superseded it for the other Banda islands. Jacques L'Hermite never took this position, of course. Nor could Grotius exclude the English from trade with Pulo Ai and Pulo Run solely by reference to the 1605 contract, which was far less restrictive than later treaties. As noted in chapter four, the Gentlemen XVII had explicitly instructed Verhoef to ensure the Company's commercial interests in the Spice Islands both by building fortresses *and* by renewing its contracts and alliances with the natives, which meant, in most cases, greater restrictions on native trade. The shaky factual foundation of Grotius' contract theories—Pulo Run and Pulo Ai never signed the treaty of August 1609—has received little attention in the secondary literature.

Compare Heeres, "Corpus Diplomaticum Neerlandico-Indicum" (Part I, 1596–1650) pp. 11–14, 23–26, 31–41, 50–53, 58–69, 70–72, 75–78, 92–94, 99–100, 108–115; British Library, Additional Manuscripts 12.498 fol. 2v, 4r–7r, 10v–14r, 17v–19r.

III *John Saris Visits the Moluccas, February–May 1613*

In modern-day historical accounts of the EIC's hesitant beginnings, Captain John Saris is usually credited with the successful establishment of trade relations with Japan—an English factory opened its doors at Hirado in 1613. Less well known is the fact that Saris visited the Moluccas *en route* to Japan, and tried, without much success, to buy cloves at the islands of Batjan, Matjan and Tidore. These interludes in Saris' voyage to the land of the Rising Sun have received little attention from British historians, unlike, for instance, John Jourdain's interloping at Ambon that same year. This is unfortunate. The history of Anglo-Dutch rivalry in the East Indies cannot be written without reference to the Moluccan venture of John Saris, which has left quite a few traces in Dutch and English archives. Predictably, it fuelled the mutual recriminations of VOC and EIC representatives at their second conference in The Hague in 1615. On that occasion, Grotius showed himself to be well informed about the particulars of Saris' visit to the Moluccas. The reason is not hard to find: courtesy of the VOC directors, Grotius was in the possession of the correspondence of Dr. Laurens Reael, Governor of the Moluccas, who had done his utmost to foil Saris' attempt to trade at Matjan in March and April 1613.⁸⁶

Although the originals have not survived, copies of Reael's letters to the VOC directors are still extant in the Grotius Papers at the Dutch National Archives. The material is, to all intents and purposes, unique. It provides a detailed record of the behind-the-scenes efforts of Reael and his Broad Council to enforce the delivery contracts, Saris' overtures to the natives notwithstanding. Two VOC warships and a company of Dutch soldiers followed Saris wherever he went in order to keep his contacts with the Matjanese down to an absolute minimum. A mixture of Dutch coaxing and intimidation persuaded the Sultan of Ternate to formally decline Saris' request for trade. The Company's naval and military forces were key to Reael's success. The Governor admitted as much in his letter to the Gentlemen XVII of 1 August 1613. He was convinced that "we could not have prevented English trade with the natives if we had

⁸⁶ Foster, *England's Quest of Eastern Trade* p. 220 (Saris in the Moluccas) and 253–259 (Jourdain at Ambon); Grotius Papers at the *Dutch National Archives*, The Hague, Supplement I fol. 103–114.

tried to stop it on the strength of sworn contracts and agreements alone.” In his view, the Saris episode should serve as a warning for the directors not to put their trust in “contracts and alliances with such a faithless Moorish nation.” Indeed, he recommended that henceforth the natives be “kept in check with naked force.” Jan Pieterszoon Coen reached the same conclusion in his famous letter to the VOC directors of 1 January 1614.⁸⁷

It will come as no surprise that Grotius largely ignored the countervailing evidence put at his disposal by the VOC directors. He never changed his tune at the Anglo-Dutch colonial conferences. The delivery contracts remained the main planks of his argument in defending the Company’s commercial interests against English encroachment. Ideological consistency did have its advantages, of course. During the second round of talks in The Hague, he once again succeeded in seamlessly weaving together his own selection of historical facts and the political theory of *De Jure Praedae*. Yet these well-worn arguments had less explanatory power in 1615 than when first formulated in 1604. Whether Grotius liked it or not, the situation in the Spice Islands had changed dramatically within the space of a decade. Gone were the days, so vividly depicted in chapter eleven of *De Jure Praedae*, when Dutch merchants shared the suffering that Iberian *armadas* inflicted upon their Asian trading partners. The VOC had become the hunter instead of the hunted: an incipient monopoly of trade was enforced with great rigor in the Spice Islands, oftentimes in complete disregard of either native or English concepts of freedom of trade and navigation.

Saris’ visit to the Moluccas is recorded in the letters which Richard Cocks, head of the English factory in Firando, and his assistant, Tempest Peacocke, wrote to the EIC directors in late November and early December 1613. According to their accounts, Saris left Bantam on 15 January 1613 (o.s.) and anchored off Batjan, the southern most island of the Moluccas, on 24 February (o.s.), where he stayed for about a fortnight. “[F]inding no trade,” he decided to sail north to Matjan at the advice of “a chief man of the island.” Peacocke

⁸⁷ Dutch National Archives, VOC 1056 fol. 120v (Laurens Reael to the Amsterdam Chamber of the VOC, 1 Aug. 1613); *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. I p. 10 (Jan Pieterszoon Coen to the VOC directors, 1 Jan. 1614).

still deplored the opportunities that had been lost there in the past. For three long years the Matjanese had waited in vain for the return of Sir Henry Middleton. This left them no choice but to submit to the Dutch. Fortunately, the islanders did not harbor any resentment. They bid Saris welcome to Matjan and initiated a brisk trade, exchanging spices for “our Cambaja cloth.” Cocks reported that a half-brother of the Sultan of Ternate had been entertained aboard Saris’ flagship, the *Clove*, who “promised us free trade.” Ketjil Sedangh’s protestations to this effect could not be trusted, however, for “having got a present, he gave us the slip.” Unbeknownst to Saris, the indigenous prince was the VOC’s most reliable ally among the members of Ternate’s royal family. As we shall see below, he actively assisted its officials in preventing English trade at Matjan.⁸⁸

The trading bonanza aboard the *Clove* did not last long. When the Dutch found out about it, they ordered Saris to leave Matjan immediately, “for that the land was theirs, and they would not suffer us to trade.” Two warships, “the *Red Lion* with 28 pieces” and “the *Moon* with 32 pieces of ordnance,” were sent to Matjan in order to back up these claims with force. The vessels approached the *Clove* in a kind of pincer movement, one casting anchor on starboard, the other on larboard. According to Peacocke, a company of Dutch soldiers was deployed ashore “night and day.” It dashed Saris’ hopes of procuring any mores spices, “except we had gone together by the ears.” The Matjanese were so intimidated by the sight of the warships and soldiers “that none durst bring us a clove.” Indeed, the VOC authorities did not even allow the islanders to bring victuals aboard the English vessel. Cocks complained in his letter that the Dutch had spoken “unfitting words” about the King of England and used Saris worse than “either Turks, Moors or any other heathen.” They had even threatened to make prize of the *Clove* if its captain dared to trade with the Iberian enemy. Saris set course for Tidore

⁸⁸ *Letters received by the East India Company from its Servants in the East: Transcribed from the ‘Original Correspondence’ Series of the India Office Records* ed. Frederick Charles Danvers and William Foster 6 vols. (London: Sampson Low, Marston & Company, 1896–1902) Vol. I, 1602–1613, p. 314 (Richard Cocks to Sir Thomas Smithe, 30 Nov. 1613 (o.s.)) and Vol. II, 1613–1615, pp. 1–2 (Tempest Peacocke to the EIC directors, 2 Dec. 1613 (o.s.)).

On Ketjil Sedangh, whose claim to the Ternatan throne was supported by Governor General Pieter Both, see Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 95, 96, 99, 101, 155, 252, 273, 275, 276, 329.

nonetheless and safely anchored under the Spanish fortress on 8 April 1613 (o.s.). According to both correspondents, he offered its commander "munition and victuals," but received only fine words in return. The *Clove* departed again on 13 April (o.s.) and, sailing north, passed by the Spanish fortress of Gan Lamo on Ternate's western coast. Don Jeronimo da Silva, the island's hard-pressed Spanish commander, exchanged salutes with Saris and sent "a boat with a flag of truce." Yet Da Silva was unwilling or unable to grant Saris the trading privileges which had been promised him by "certain cavaliers" at Tidore. The *Clove* proceeded to Japan and entered the road of Hirado on 12 June (o.s.).⁸⁹

From the English perspective, Saris' disappointment in the Moluccas paled into insignificance beside his successful establishment of an EIC factory in Japan. Yet his Moluccan adventure went down in the annals of the VOC as a major English attempt to undermine its position in the Spice Islands. Senior Company servants like Pieter Both, Laurens Reael and Jan Pieterszoon Coen drew the same conclusion from their experiences with Saris and Jourdain. They warned the Gentlemen XVII that all the contracts in the world would not stop English interloping in the Spice Islands. The EIC had to be brought to heel, preferably by means of negotiations in Europe, and, if necessary, by taking more stringent measures in Asia. As it was, VOC commanders found it difficult to evict Saris and Jourdain from the Spice Islands. They felt hamstrung by the directors' orders not to use any force against the English. Reael was more successful than Coen in his efforts to counter English interloping, largely because he maintained good relations with the Ternatans. Although the Sultan of Ternate and his noblemen were by no means uncritical of the VOC's commercial policies, they needed the Company in the struggle against their archenemy, the Sultan of Tidore and his Iberian allies. Reael had captured a Spanish fortress at Tidore only a month

⁸⁹ *Letters received by the East India Company* Vol. I pp. 314–315 (Cocks to Sir Thomas Smithe, 30 Nov. 1613 (o.s.)) and Vol. II pp. 2–3 (Peacocke to the EIC, 2 Dec. 1613 (o.s.)).

On Don Jeronimo da Silva, who labored ceaselessly, yet without much success, to contain the VOC's rise to power in the Moluccas, see Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 96–101.

On Saris' voyage to Japan and his establishment of an English factory there, see Foster, *England's Quest of Eastern Trade* pp. 217–225.

before Saris' arrival at Batjan, for example. As a *quid pro quo*, the Sultan of Ternate had ample reason to deny the Englishman permission to trade in the Moluccas. Nothing like this profitable partnership between the Ternatans and the VOC existed at Ceram, an island off the coast of Ambon, where the inhabitants chafed at the delivery contracts and resented the VOC's armed presence, which held few attractions for them. Coen was indeed struggling to keep English interlopers away from Ambon in the spring of 1613. His memorable encounter with John Jourdain is the topic of the next subsection. Reael's hard-nosed dealings with Saris are discussed here. As shown by Reael's correspondence, it was certainly no foregone conclusion that he would be successful in his efforts to exclude the EIC from the spice trade.⁹⁰

The Governor of the Moluccas was notified of Saris' arrival at Batjan shortly after Governor-General Pieter Both had left the Moluccas on 7 March 1613. Reael did not undertake any action at that point. He realized that he would be too late to prevent English trade on the island—Batjan was a long way from Ternate—and that Saris stood little chance of obtaining any cloves—the island had always been the breadbasket of the Moluccas, and produced no spices. Yet Saris could do the Company great harm by blackening its reputation among the natives. When Reael wrote to the Amsterdam VOC directors on 1 August 1613, he noted that Saris had made a great show of commiserating with the Batjanese, who had allegedly been enslaved by the VOC,

as free trade with several nations, which could have enriched them, had been taken away from them, leaving them at our mercy and feeding out of our palm.⁹¹

It was no wonder that Saris should have struck up a great friendship with Kimelaha Daya. A Ternatan nobleman and Governor of Matjan, the latter loved to tyrannize over the islanders and thwart

⁹⁰ Dutch National Archives, VOC 1056, fol. 120v (Laurens Reael to the Amsterdam Chamber of the VOC, 1 Aug. 1613) and VOC 1057, f. 10v. (Governor Generale Gerard Reynst to the Amsterdam Chamber of the VOC, 11 Nov. 1614); *Generale Missiven van Gouverneurs-Generaal en Raden aan de Heren XVII der Verenigde Oostindische Compagnie* ed. W.Ph. Coolhaas, J. van Goor *et alii*, 11 vols. (The Hague: Martinus Nijhoff, 1960–) Vol. I (RGP 104) p. 43; Jan Pietersz. Coen: *Bescheiden Omtrent Zĳn Bedrijf in Indië* ed. Colenbrander Vol. VI p. 461; Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 99, 274–277, 281; 294–295, 297, 339–340.

⁹¹ Dutch National Archives, VOC 1056, fol. 120r (Reael to the Amsterdam VOC directors, 1 Aug. 1613).

the Dutch, with varying success. Saris had been in possession of a letter from Kimelaha Daya when he arrived at Matjan on 17/27 March. The letter urged the inhabitants "to freely trade with the bearer" and "assist him in everything until the arrival of Kimelaha Daya himself." Yet the Englishman had been sorely disappointed in the "great authority and commandment" which Kimelaha Daya pretended to have over the islanders. For one thing, the Matjanese regarded the VOC as their ally and protector, who shielded them from the worst excesses of Ternatan government. Nor had Reael been idle when he learnt of Saris' arrival on the island.⁹²

Reael had immediately sent the warship *Red Lion* to Matjan, along with three members of the Broad Council—Commander Adriaen Block Martens, Captain Gysbrecht van Vyanden and merchant Christiaan den Dorst. On 4 April 1613, the Englishman had been served a writ (*insinuatie*) in the name of the "Governor of the islands, fortresses and places occupied or possessed in the Moluccas, as well as Ambon and Banda, by Their High Mightinesses, the Estates General of the United Provinces." According to the protestation, the Matjanese were obliged "by conquest, contract and debts of one kind or another" to deliver all their cloves to the VOC, without exception. Reael made it clear that he would not shrink from taking drastic measures in order to maintain the VOC's monopoly of the spice trade. He begged the Englishman not to hold it against him, but to keep in mind that "we are simply maintaining our right." If Saris

⁹² Dutch National Archives, Grotius Papers, Supplement I, ff. 106r–v, 108v.

Kimelaha Daya was a thorn in the side of the VOC and would remain so for many years. When Pieter Both, the Dutch Governor General, arrived in the Moluccas in June 1613, he had great difficulty patching things up with the King of Batjan, for example, whom Kimelaha Daya had fooled into believing that the VOC sought to depose him and turn his Muslim subjects into Christians.

During his visit to the Moluccas, Both made a point of scaling back the outrageous financial demands of the Sultan of Ternate, which weighed heavy on the Matjanese. In his opinion, they would have long since revolted against the Sultan's "insufferable government" if it had not been for the fact that the VOC offered them a measure of protection.

In theory, Matjan was a joint conquest of the Sultan and the VOC, which had consented to Kimelaha Daya's appointment as Governor. It was not his first government position, nor would it be his last. He had been regent for Sultan Modafar of Ternate from 1606 until 1610, when the ruler was still a minor. He would be the Sultan's representative at Ceram from 1617 until his death in 1623, causing no little trouble for the Dutch.

See Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 160, 252–254, 283.

failed to answer the summons, his silence would be interpreted as a pledge not to undertake anything prejudicial to “our right.” Finally, Reael protested that, should “any differences arise between Your Honor and us,” the VOC would not be responsible for the “unforward consequences.”⁹³

Yet Saris had not been inclined to take orders from Reael, and told Den Dorst so in no uncertain terms. Any debts that the islanders owed to the VOC were of no concern to him. Like all merchants looking for an honest profit, he would trade with whomsoever came aboard the *Clove*. According to Ketjil Sedangh, who had visited him the previous day, the Matjanese were no “slaves,” but a “free people, who could trade with anybody they wanted.” If the Dutch sought to prevent him from trading with the natives, he promised to cause so much trouble that they would live to regret it. He also pretended to be a plenipotentiary of the King of England, who had allegedly dispatched him to the Moluccas in order to report on the VOC’s treatment of the Spanish. Den Dorst replied in kind. He admonished Saris not to sell any guns, powder and shot to the Spanish or Tidorese, otherwise the VOC would have to follow the example of Queen Elizabeth I, who had confiscated Dutch merchantmen during the Spanish War if she suspected them of arms shipments to the Iberian Peninsula. Den Dorst’s warning made no impression on Saris. It was his intention to trade wherever he could make the most money, whether the Dutch liked it or not. He did not give a fig for the VOC authorities in the Moluccas, “even if there were fifty of our ships.”⁹⁴

The Company had less to fear from Saris’ empty threats, however, than from its vacillating indigenous allies. So much is clear from the letter of Block Martens, Van Vyanen and Den Dorst of 4 April 1613. The three commissioners wrote to Reael that they had

⁹³ Dutch National Archives, Grotius Papers, Supplement I, f. 103r–104v.

Christiaan den Dorst was not allowed to enter the captain’s cabin when he delivered the writ aboard the *Clove*. He was told that “their General had taken medicines that day.” Ketjil Sedangh’s description of the English captain allowed the commissioners to establish Saris’ identity nonetheless. Den Dorst remembered him as the senior merchant of the English factory at Bantam, “a conceited and haughty man.” Saris had apparently been in the habit of wearing “Turkish dress,” including a turban, in order to ingrain himself with the “Moors.” Compare Dutch National Archives, Grotius Papers, Supplement I, f. 106r.

⁹⁴ Dutch National Archives, Grotius Papers, Supplement I, f. 104v.

kept a tight watch on Saris' ship. The *Red Lion* was anchored on one side of the vessel and "the proas of Captain Vyanen on the other side." They reported that the inhabitants of Matjan did no longer dare to go aboard the *Clove*. Was this the happy result of a conversation between Ketjil Sedangh and Block Martens on 1 April? The Ternatan prince had expressed his approval of the measures already taken by Block Martens, and promised to do his part as well by enjoining the Matjanese not to sell any cloves to Saris. Yet the three commissioners feared that Ketjil Sedangh played a double game. Only the previous day, the prince had been received aboard the *Clove* with full honors. Nor could he give them a satisfactory explanation afterwards. Allegedly, he had assured Saris that he did not have the authority to grant trading privileges to anybody, and advised him to address himself to the Sultan of Ternate and "the Governor of Hollanders, with whom they had made a strict treaty and alliance." He also said that he had strenuously objected to the Englishman's plan to deliver "a consignment of muskets and hundred barrels of gunpowder" to the Spanish at Tidore. The commissioners were troubled by the fact that Ketjil Sedangh had accepted several presents from Saris nonetheless. In response to their questions, the prince admitted that he had been so importuned by the Englishman that he had promised him to personally intercede with the Sultan of Ternate. Understandably, the commissioners were alarmed by these developments. In their opinion, the Matjanese needed very little encouragement from Ketjil Sedangh to resume their trade with Saris. They requested a second warship from Reael and urged him to reconsider his instructions for Block Martens, which strictly prohibited any kind of violence. Saris had been "very proud and arrogant," and should be made to leave the Moluccas, whether by fair means or foul.⁹⁵

⁹⁵ Dutch National Archives, Grotius Papers, Supplement I, f. 105r–106v (Adriaan Block Martens, Gijsbrecht van Vianen, and Christiaan den Dorst to Laurens Reael, 4 April 1613).

The word "ketjil" is Malay for "prince." Ketjil Sedangh was the eldest son of Sultan Sahid of Ternate and half-brother of Sultan Modafar († 1627). The royal succession at Ternate was not based on primogeniture. Modafar succeeded his father when the latter was captured and imprisoned by the Spanish in March 1606. Since Modafar was not a particularly strong ruler, Governor General Pieter Both supported Ketjil Sedangh's claim to the throne. The Ternatan prince showed himself a reliable ally of the Dutch, much to the dismay of Don Jeronimo da Silva, the

Although Reael complied with his commissioners' request for a second warship, he refused to authorize the use of force. The Governor remained confident that no violence would be necessary to get the better of Saris. He had several irons in the fire already. The commissioners were instructed not to show any disrespect or suspicion towards Ketjil Sedangh, but to treat him with the same courtesy as before. Meanwhile, Reael wrote to the Ternatan prince and urged him "to proceed carefully in the matter and discuss with our men over there [at Matjan] the best way to get rid off the Englishmen, which task we entrust to you, our most loyal ally, with the greatest confidence." Yet the Governor did not intend to extend his blandishments to the Sultan of Ternate. Hans de Haze, the VOC's director of trade in the Moluccas, received instructions to tell the Sultan "in three words" that Reael would not allow a single clove to be sold to Saris. He meant to forestall such trade in any way he could, even if he needed to send another warship to Matjan. The Ternatan authorities had better face up to their responsibilities and ask Saris to leave immediately. As Reael explained to De Haze, "his presence causes us to neglect many things and prevents us from doing the enemy sufficient damage, two warships being tied down at Matjan already."⁹⁶

The Governor's tactics were largely successful. The Sultan of Ternate had at first been inclined to give Saris permission to trade, tempted by "the reasonable prices of his cottons." Yet the ruler decided otherwise after two long meetings with his noblemen on 7 and 8 April 1613. The VOC merchant Adriaan van der Dussen kept Reael informed about their deliberations. According to Van der Dussen, the Ternatan authorities had neither money nor cloves to spare for Saris, while they realized that Reael was determined to prevent English trade in the Moluccas and had the means to do so. Their contractual obligations to the VOC were completely left out of the discussion. It was a disturbing observation by Van der Dussen, heavily underlined by Grotius in his copy of Reael's correspondence.⁹⁷

Spanish commander of the fortress of Gan Lamo. See Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 95, 96, 99, 101, 155, 252, 273, 275, 276, 329.

⁹⁶ Dutch National Archives, Grotius Papers, Supplement I, f. 106v–107v (Reael to Hans de Haze, April 1613, and Reael to Ketjil Sedangh, 10 April 1613).

⁹⁷ Dutch National Archives, Grotius Papers, Supplement I, f. 107r (Adriaan van der Dussen to Laurens Reael and Hans de Haze, 8 April 1613).

Although Reael subscribed to Van der Dussen's views, he could nonetheless be forgiven for concluding in his letter to the Amsterdam VOC directors that all was well that had ended well. As soon as the Sultan and his noblemen had ruled against Saris, he had dispatched their verdict to the Dutch commissioners at Matjan. In consultation with Ketjil Sedangh, the commissioners had authorized Sengadji Lymatau, a local leader, to notify the Englishman that

firstly, at the advice of Your Honor [i.e. Reael], the King of Ternate and his Council cannot allow the inhabitants of this country to trade with him [i.e. Saris], as the inhabitants are required to deliver their cloves to our men [i.e. the VOC] and nobody else. [The King and Council] consequently counsel him not to lose any time, but to continue on his journey as soon as possible.

Saris was sorely disappointed by this announcement and asked to speak to Ketjil Sedangh. Yet the Ternatan prince hastily decamped, eager to avoid a second interview. Just before his departure, he did the commissioners a great favor by expressly prohibiting trade with the English "in all places of this island." He admonished the commissioners not to allow any native proas near Saris' ship, irrespective of their cargoes. As a result of his intervention, Matjanese visits to the *Clove* ceased completely. Seeing that trade was impossible by day, the indefatigable Saris tried his luck ashore by night. Yet a Dutch boat followed his sloop wherever it went, which greatly irritated Saris and caused him "much trouble." The situation might well have spun out of control, so the commissioners informed Reael, if it had not been for the "great patience" which "our men" displayed in the face of English "arrogance and viciousness." In order to prevent further incidents, the commissioners established a small stronghold on the beach and manned it with soldiers, while they warned the captain of the *Clove* not to stir from his ship at night anymore. The battle of wills was almost over. The commissioners noted that Saris' men had been busy filling water casks ashore, which indicated an imminent departure.⁹⁸

⁹⁸ Dutch National Archives, Grotius Papers, Supplement I, ff. 108v–109r (Block Martens, Van Vyanen and Den Dorst to Reael, 13 April 1613).

The Ternatans used the Malay word "sengadji" to designate a territorial head or governor. Sengadji Lymatau was a Ternatan nobleman and ally of the Dutch. Compare Rietbergen, *De Eerste Landvoogd Pieter Both* p. 153.

Just before the *Clove* left Matjan, the master of the *Moon* had a revealing conversation with “the merchant of the English ship.” According to Block Martens, who reproduced the conversation in his letter to Reael of 15 April 1613, the merchant expressed Saris’ dissatisfaction at the sudden disappearance of the proas that used to deliver provisions to the *Clove*. The master of the *Moon* feigned innocence, of course. The Dutch ships were just there to prevent the natives from selling cloves to the English. By implication, Saris’ difficulties could only be of his own making. If he had been friendly with the Dutch—“instead of the arrogance and viciousness that has caused so much trouble,” he would never have lacked fresh supplies of victuals. In response, the English merchant admitted that it had taken Saris a long time to understand that “we alone were privileged to engage in commerce with the inhabitants.” For both Kimelaha Daya and Ketjil Sedangh had given assurances to the contrary. When his Dutch interlocutor replied that “blacks” should never be trusted, the English merchant made an end of the conversation. In his view, “the inhabitants were not just bound to us, but little more than our slaves.” Significantly, the phrase “our slaves” was underlined in Grotius’ copy of the letter. However disagreeable its implications, he could not afford to ignore it while preparing for the second Anglo-Dutch colonial conference.⁹⁹

True to form, it was the English delegation that first mentioned the voyage of the *Clove* during the negotiations in The Hague in 1615. Saris’ misfortunes in the Moluccas were cited in the third English memorandum of 23 February/6 March 1615 in order to a) expose the VOC’s unsavory methods in appropriating “the sole trade to yourselves,” and b) question “your contracts whereupon you so much insist.” According to the English negotiators, Saris had been invited to Matjan “by an Indian of good quality,” who had assured him that trade on the island was “free as well for us as for yourselves.” Yet the captain of the *Clove* had hardly begun to sell his wares when Dutch factors spread sordid stories about “our nation” in an attempt to scare away his customers. If that was not enough, two Dutch men-of-war had cast anchor on either side of Saris’ ship and barred the Matjanese from delivering “so much as fresh victual

⁹⁹ Dutch National Archives, Grotius Papers, Supplement I, f. 110r (Block Martens to Reael, 15 April 1613).

to relieve our sicke men." It just showed that the VOC maintained a monopoly of trade in the Spice Islands by means of violence and intimidation, rather than "the conventions pretended to be made by you at Ternate and Tidore." Even if these existed and even if "we gaine trade of those people contrary to your contracts," the VOC directors still had no case against the London merchants. Their servants in the East should expostulate with the natives, who had allegedly "obliged themselves," rather than with the English, who were clearly "free." It was much better for the two Protestant countries to remain friends and allies. Although the English negotiators doubted that "you have such contracts as you do pretend," they considered it irrelevant to the matter at hand. As they pointed out to Grotius, no commercial agreement between the VOC and indigenous peoples could "barr us from free trade."¹⁰⁰

Grotius begged to differ in his reply of 2/13 March 1615. He cleverly offered to dispel English doubts about the nature of the VOC contracts by means of "authentically demonstrations we have in readiness," that is the original treaties bearing the signatures of Asian rulers. Needless to say, he considered the English arguments completely inappropriate and insufficient. The natives' failure to observe sworn treaties was proof of "their perfidiousness," not "the invalidity of these contracts." For, as Grotius pointed out,

[w]hich is done by the consent of two partyes cannot be undone by the will of one alone: *pacisci est libertatis, stare pacto necessitatis*.

In his view, the English negotiators were misinformed about the situation in the East Indies. The facts were quite different from what his opponents presumed them to be. The Sultan of Ternate had met with "the Lords of his Council" on 8 April 1613 and discussed Saris' request for trading privileges, but had resolved to "hold himself to his contracts." It was decreed that all cloves harvested in his realm should be delivered to "our factors, without giveing part to the captaine of your ship." When informed of the Sultan's decision, Saris had nevertheless tried to "buy that by force, which neither would nor could be sold unto him," a veiled reference to the Englishman's

¹⁰⁰ British Library, Additional Manuscripts 12.498 fol. 28r (third English memorandum, 23 Feb./6 March 1615).

attempt, foiled by Reael's commissioners, to obtain spices ashore in the dead of night.¹⁰¹

At this point, Grotius was faced by a potential problem of his own making. *Mare Liberum* propagated "the right of inoffensive transit," which was inherent in "the law of human fellowship." It furthermore taught that travelers could not be denied "a sharing in those things, which are common property under the law of nations or by custom." According to *De Jure Praedae*, the Portuguese governors of Annobon and Prince's Island, located in the South Atlantic, had committed a great wrong when they refused provisions to Dutch merchantmen *en route* to the East Indies and prevented their crews from filling water casks ashore. Could the VOC be guilty of a similar offense against Saris? Grotius was loath to admit this possibility. The VOC authorities should not be blamed for Saris' refusal to accept the supplies that they had freely offered him. Nor would they have denied him free access to Matjan "if he had not made open profession of using it to the prejudice of our contracts."¹⁰²

As for his opponents' suggestion that the VOC speak to the natives about their failure to honor the contracts, Grotius cleverly noted that "natural reason" had apparently forced his interlocutors to admit that

he to whome another hath promised to deliver certayne commodities hath right to hinder the promiser from deliverying them to any other.

As Grotius explained, citing straight from *De Jure Praedae*,

promise giveth interest and right, and where there is no judge every man naturally is executor of his owne right and may lawfully hinder those who trouble him in the enjoying of such a right.

It followed as a corollary that something could not be justly bought which could not be licitly sold in the first place. If the violators of oaths were liable to punishment for the harm they had inflicted, so were those who incited or abetted their crimes. Grotius proposed a simple remedy: "where offence is unlawfull, defence is lawfull." It was the VOC's task to bring to book the few natives who had bro-

¹⁰¹ British Library, Additional Manuscripts 12.498 f. 30r-v (Grotius' reply to the third English memorandum, 2/13 March 1615).

¹⁰² British Library, Additional Manuscripts 12.498 f. 30v; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 177, 201–202, 219, 244.

ken their word and refused to fulfill their obligations to the Company. For the “friends” of the VOC (i.e. the pro-Dutch factions among its indigenous allies) should suffer no harm for their refusal to “falsefy their faith given unto us.” Although such measures might not be to the liking of the English, these did not violate or abridge freedom of trade in any way. As Grotius explained, freedom of trade was “generall” before the “owner” disposed of his right, but not afterwards. According to his contract theory, “the right of the buyer” was directly derived from “the right of the seller,” which could be “lessened or diminished by promises.” After all, *nemo plus juris in alterum transfere potest quam ipse habeat* (“nobody can transfer more rights to another than he has himself”). The VOC spokesman smugly observed that he had not been contradicted on this point in any of the English memorandums. He predicted, quite rightly, that his opponents would be unable to produce a more convincing definition of a contract.¹⁰³

Clement Edmondes nevertheless made a halfhearted attempt in the fourth English memorandum of 6/16 March 1615. He argued that Grotius’ definition of a contract—*do ut facias*—should be replaced by the “more ancient called by civillians *do ut des*.” This only served to reveal his ignorance of Roman law: the *Digest* treats both meanings as virtually synonymous. He was more successful in disputing Grotius’ claim that everyone became the executor of his own right in the absence of a neutral and effective judge. Who would decide between the English and the Dutch if they disagreed about whether or not *ius gentium* allowed commerce to be “totally excluded without hostility”? In matters of “natonal righte,” all countries were interested parties. Did Grotius really mean to appoint his countrymen as the “executioners” of their own “conceptions”? This came dangerously close to suggesting that the VOC must be judge in its own cause. In Edmondes’s view, “these termes” should not be bandied about at the conference table and were better left to “those that doe not treat with their friends.” He had hit the nail on the head. Grotius had first formulated his natural rights theories in the context of the Dutch revolt against Spain. The concept of the just war was central to *De Jure Praedae* and defined as essentially a judicial procedure. Edmondes knew nothing about the origins and development

¹⁰³ British Library, Additional Manuscripts 12.498 f. 30v, 33v; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 87–95, 136, 274–275.

of Grotius' theories, of course. Yet there was much to be said for his dismissal of Grotius' concept of the just war as irrelevant in the context of the Anglo-Dutch colonial conferences. It seemed rather out of place in negotiations between two trading companies that were nominally at peace with each other, and under heavy pressure from the Dutch and English governments to resolve their differences amicably, lest these undermine the Anglo-Dutch alliance in Europe.¹⁰⁴

The VOC spokesman could not agree with Edmond's criticism. In his reply of 8/19 March 1615, Grotius once again cited *De Jure Praedae*, and repeated that his compatriots did not enforce any "conceptions" in the East Indies, but executed their "right." Yet there was something missing from his argument. Neither on this, nor any other occasion, did Grotius acknowledge the discrepancy between the theory and practice of the VOC contracts. In his view, the contracts were the natives' expression of gratitude for their deliverance from Portuguese tyranny. His analysis of the situation had hardly changed since he wrote *De Jure Praedae*, when it was, admittedly, closer to the truth. Yet he had plenty of evidence at his disposal in 1615 indicating that the natives did not honor the delivery contracts out of their own free will, but because of VOC harassment and intimidation. Friendship had changed into mortal hatred among the Bandanese, who engaged in intermittent guerilla warfare against the Dutch garrison at Neyra. Even the Ternatans, steadfast allies of the VOC, resented the stringent conditions imposed upon them and were hard-pressed to honor them. In true lawlerly fashion, Grotius had no difficulty dismissing Edmond's account of the voyage of John Saris. Yet he could hardly ignore the countervailing evidence in his own possession. The correspondence of Reael showed quite clearly that the Sultan of Ternate could only be dissuaded from his original intention to give Saris permission to trade in the Moluccas by means of a Dutch veto. The Sultan's halfhearted ruling against the Englishman would almost certainly have remained a dead letter if it had not been for the active support that Reael received from Kitjil Sedangh. Although the Ternatan prince had no qualms about taking Saris' presents, he was equally determined to stick to his Dutch

¹⁰⁴ British Library, Harleian Mss. 147 f. 63r; Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 63–84; Grotius, *The Free Sea* ed. Armitage pp. 60–61; Grayson, 'From Protectorate to Partnership' pp. 241–276.

alliance and enforce his half-brother's decree at Matjan. More importantly, Dutch soldiers and warships had been stationed all around the *Clove*, which made it impossible for the Matjanese to sell spices or victuals to the Englishman. After reading Reael's correspondence, Grotius could have had few doubts about the true nature of the VOC contracts. From the perspective of the indigenous peoples, the contracts were no longer voluntary agreements, but cruel dictates that undermined their sovereignty and self-determination. Not that this made much difference in the context of Grotius' contract theories. Since the natives had freely allied themselves with the VOC—initially, this was indeed the case—they ought to observe these treaties for as long as the Company honored its share of the bargain and defended them against their alleged enemies, the Spanish and Portuguese.¹⁰⁵

IV *John Jourdain Visits Ambon and Ceram, March–May 1613*

To do Grotius justice, the countervailing evidence at his disposal was never more copious and straightforward than in the case of Saris' voyage to the Moluccas. The VOC spokesman knew much less about John Jourdain's attempt to trade at Ambon and the neighboring island of Ceram in 1613. Indeed, he was positively misled about key aspects of Jourdain's voyage by the VOC sources in his possession, a fate that he shared with the VOC directors, by the way. The man responsible for feeding them the wrong kind of intelligence was, undoubtedly, Jan Pieterszoon Coen. He commanded the relief fleet that left the Dutch Republic in the spring of 1612 and reached Ambon just in time to prevent Jourdain from establishing a factory there. While still in Holland, the young merchant had already expressed his disdain for English complaints about Dutch obstruction of their trade in the Spice Islands, and had refuted point-by-point the EIC petition submitted to Salisbury in October 1611. He showed himself to be equally narrow-minded and selfrighteous in his dealings with Jourdain. His own account of the Englishman's successful trading voyage to Ambon and Ceram, which reached the VOC directors before the start of negotiations in The Hague in February 1615, was equivocal at best. Coen controlled the flow of

¹⁰⁵ British Library, Additional Manuscripts 12.498 f. 33v.

information in other ways as well. Steven Coteels, the senior Dutch merchant at Ceram, and Jasper Janssen Jr., the Dutch Governor of Ambon, largely repeated Coen's analysis of the situation in their own letters to the VOC directors. Coen also elicited three sworn statements from the Dutch factors at Ceram, which, predictably, made Jourdain appear in an unfavorable light. Although Grotius received copies of these depositions, he never set eyes on the letters of Coteels and Janssen Jr. The Dutch and English negotiators were faced with two mutually exclusive accounts of Jourdain's voyage when they met in The Hague in 1615. Nor did Grotius and Edmondes make much of an effort to distinguish between fact and fiction; for example, by means of a systematic comparison of Dutch and English sources. Both men were as little inclined to reconcile their disparate historical views as to resolve their conflicting interpretations of natural law.¹⁰⁶

Coen's misleading reports on English interloping in the Spice Islands had important consequences for VOC policy. His views were echoed in the letters of Coteels, Janssen Jr., and even those of Pieter Both, the Dutch Governor General. Their 'group-think' muddied the waters for the Gentlemen XVII. In the aftermath of the conference in The Hague, they issued new orders to their servants in the East that were both erroneous and confusing. Their letter of 30 April 1615 gave a fairly detailed overview of the negotiations and recounted the arguments that had been used by both sides. Yet they could not hide their disappointment at the English refusal to respect their exclusive right to trade in the Spice Islands, and they denounced Edmondes' "frivolous" insistence on freedom of trade and navigation.

¹⁰⁶ *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. I pp. 10–14 (Coen to the VOC directors, 1 January 1614) and Vol. VI pp. 451–474 ('Discourse addressed to the VOC directors', 1 January 1614); Dutch National Archives, Grotius Papers, Supplement I, f. 111 (deposition of Willem Noblet and Cornelis Dirksen, 11 April 1613), f. 113 (deposition of Noblet, Cornelis van Neck and Gerrit Hendricxz Rotgans, 12 April 1613), f. 114 (deposition of Noblet, Steven Coteels, Hans Meerman and Van Neck, 13 April 1613); Dutch National Archives, VOC 1056 f. 45r–46r and 67r–v (Steven Coteels to the Amsterdam VOC directors, 17 May 1613, and Jasper Janssen Jr. to the same, 31 May 1613); Rietbergen, *De Eerste Landvoogd Pieter Both* p. 294 (even Both repeated the charges that Coen had leveled against Jourdain in his letter to the Gentlemen XVII of 1 January 1614); British Library, Additional Manuscripts 12.498 ff. 28r, 30v.

Was it a tacit acknowledgement that *Mare Liberum* was a double-edged sword, wielded expertly by at least some of their competitors? Grotius' performance as VOC spokesman was certainly not the issue. In recognition of his services, the Gentlemen XVII awarded him the princely sum of fifty *rosenobels* at their meeting in Amsterdam at the beginning of May 1615. This did not alter the fact that his reasoned eloquence, which once worked wonders for the Company, had clearly fallen on deaf ears during the Anglo-Dutch colonial conferences. The letter shows that the Gentlemen XVII were thoroughly disillusioned with the tiresome and fruitless talks, and demanded deeds, not words, from their servants in the East. They failed to propose concrete measures to stop English interloping in the Spice Islands, however, and took refuge in vague commonplaces. On the one hand, they enjoined the Governor General and Councilors of the Indies to treat EIC merchants with the greatest courtesy. On the other hand, they made it clear that their first priority was still the creation of an effective monopoly of the spice trade. The Governor General and Councilors of the Indies were told to a) enforce the delivery contracts with all possible means and b) to respond in kind if the English used violence against the natives. This ambiguous set of instructions made no sense to Laurens Reael, who had meanwhile succeeded Gerard Reynst as Governor General. As Reael explained in his letter of 18 July 1616, the inhabitants of the Spice Islands were eager to trade with the English of their own accord, not because the English terrorized them in any way. It was a serious error on the part of the Gentlemen XVII, which left the Governor General and Councilors of the Indies without proper guidance on how to handle English interlopers in the Spice Islands. Such a misunderstanding would not have arisen if it had not been for Coen's deceptive analysis of the reasons why the chiefs of Ceram and Ambon, nominal allies of the VOC, should have vacillated in the face of Jourdain's request for trading privileges in the spring of 1613.¹⁰⁷

¹⁰⁷ Dutch National Archives, VOC 312 f. 148–155 (Amsterdam Chamber of the VOC to Governor General Gerard Reynst and Director General of Trade Jan Pieterszoon Coen, 30 April 1615), printed in *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. IV pp. 296–303; Dutch National Archives, VOC 100, unfoliated (minutes of the meeting of the Gentlemen XVII at Amsterdam, 2–7 May 1615); *Generale Missiven der VOC* Vol. I (RGP 104) pp. 65–66 (Laurens Reael to the Gentlemen XVII, 18 July 1616).

How did the English captain manage to create so much trouble for Coen and his cronies? Jourdain cast anchor off the village of Hitu, situated on Ambon's north coast, on 21/31 March 1613. He received a visit from Steven Coteels, the most senior VOC merchant at Ceram, the following day. Coteel urged him not to buy any cloves from the Hituese, lest the latter impose a steep price increase. Jourdain shared these concerns and proposed a trade agreement that would satisfy both parties. In return for "200 bahars" of cloves, he would undertake not to "deale with the countrie people for one bahar" and compensate the Dutch with an extra "5 rialls of eight" per *bahar*, regardless of the price they had paid for the spices themselves. Coteels went away "well satisfied" at his proposal and promised to recommend it to Jasper Janssen Jr., the Governor of Castle Victoria at Ambon. Jourdain did not stand still while awaiting Janssen's reply. He arranged a meeting with the local strongman, Captain Hitu, in order to discuss the establishment of an English trading post in the village. Captain Hitu was a staunch friend and ally of the VOC, however, and begged him to take his request to Castle Victoria. Jourdain would have none of that. Only if the Dutch turned out to have full sovereignty over Hitu could he contemplate subjecting himself to their rules and regulations. In that case, it should not be a problem for him to obtain trading privileges anyway, so he boasted to Captain Hitu,

for that wee are freinds with them and they cannot deny us trade in any of their dominions, except they will breake the league which is betwixt us.

For all his bravado, Jourdain never seriously believed that he could get his way at Ambon simply by citing the Anglo-Dutch alliance in Europe. He preferred to take a different view of the matter, in fact. The Hituese had always been a free people, "and not subject to the Dutch," which meant that "they mighte freelie deale with any that came to their countrye." Captain Hitu seemed more or less con-

The *rosenobel* was originally an English gold coin, first minted in the Dutch Republic in the last quarter of the sixteenth century. One *rosenobel* was worth eight Dutch guilders. For his services as VOC spokesman, Grotius received the equivalent of four hundred Dutch guilders (i.e. £ 40.00) from the Gentlemen XVII.

vinced by his arguments and called a meeting of the orangkays (chiefs), who promptly gave him permission to establish an English factory in the village.¹⁰⁸

Not everything went Jourdain's way. When Coteels came aboard the *Darling* on 27 March/6 April 1613, he brought along a message from Governor Janssen, who, so far from accepting Jourdain's offer, warned him "not to deale with the counrye people for any cloves." Otherwise Janssen would be forced to do his "uttermost to prevent us." The reasoning behind this peremptory prohibition was familiar. The VOC had contracted "with the people for all the cloves growinge upon the iland," and paid for these spices in advance. Nor did the Company have the bad grace to set up shop in ports like Surat, which already counted an English factory, just in order to "buye, to raise the price of comodities, to hinder us." The Dutch deserved special consideration as "protectours of the counrye and people," and must not allow Jourdain to "reape the fruite of their labours." The natives could not possibly recompense the VOC for the heavy financial burden it bore in defending them against the Spanish and Portuguese unless they kept their promise to sell the Company all their cloves, both now and in the future. Grotius would restate these arguments in one form or another at the conference in The Hague two years later.¹⁰⁹

Jourdain refused to put up with Janssen's curt rejection of his proposal for a trade-sharing agreement. In reply, he flatly denied that he was out to break the VOC's contracts with the indigenous peoples, for he knew of none. Even if these existed, he found it hard to believe that such treaties applied to him as well. He had never heard of an arrangement between the VOC and EIC that prohibited English trade in the Spice Islands. The VOC should prosecute

¹⁰⁸ Foster, *The Journal of John Jourdain* pp. 247, 249–250 (diary entries of John Jourdain, 21, 22, 25–26 March 1613 (o.s.)).

The *bahar* was a unit of weight common throughout the Malay Archipelago, which could be subdivided into *picols* and *kati*. These units of weight had no uniform standard in the seventeenth century, but, as a rule of thumb, the *bahar* was subdivided into three *picols* and the *picol* into 100 *kati*. Dutch historians usually equate one *bahar* with 364 Amsterdam pounds, approximately 180 kilos, and the *kati* with $1\frac{1}{4}$ Amsterdam pounds, a little more than 600 grams.

¹⁰⁹ Foster, *The Journal of John Jourdain* pp. 250–251 (diary entry of John Jourdain, 27 March 1613 (o.s.)).

the natives for breach of contract, not him. Even if the VOC had sold the Ambonese a “fewe rotten comodities” on credit, this could not prevent the latter from trading with whomsoever they wished—“every debtour is not a slave.” It was outright “frivolous” on Janssen’s part to suggest that his compatriots deliberately refrained from obstructing English trade “where wee had factories.” Jourdain knew very well that EIC merchants never lacked Dutch competition wherever they went in the East Indies. Imagine what it would be like if the roles were reversed and the Dutch were excluded from trade by the English, “usinge such hard measure towards them as they doe towards us.” The Dutch should be ashamed of themselves for preferring “infidells and Moores” to the English, who were “Christians of their owne religion and neere neighbours, to whome they have bene much beholdinge.” Unless the villagers confessed themselves to be “vassalls of the Hollanders,” Jourdain had no reason to respect the Governor’s wishes, and intended to freely trade with the Hituese, “if they are soe content, as they are.” Nor could Janssen be more wrong when he accused Jourdain of reaping the fruits of his countrymen’s “labours.” It was rather the other way around. The English had lost their “libertie to trade in a free cuntrye, havinge many times traded in these places.” Nor did Jourdain have any sympathy for Janssen’s complaints about the high costs of maintaining fortresses and garrisons in the Spice Islands. If the Dutch received “little thanke[s]” for their alleged protection of indigenous peoples, it was because their naval and military forces served no other purpose than to subject the natives “against their wills.” The latter would “debarre you” from building any more castles if they could. These were the arguments that Edmondès would repeat in one form or another at the conference of 1615, analogous to Grotius’ borrowing from the VOC depositions.¹¹⁰

Jourdain’s rebuttal failed to impress the VOC officials at Ceram and Ambon. The Governor of Victoria Castle sent a personal message to Captain Hitu and urged him to eschew any kind of trade with the Englishman for as long as the latter refused to join the Dutch in defending “the cuntrye from the Portugalls, Spaniards and all other nations.” Janssen resorted to outright harassment and intimidation as well. If Captain Hitu should grant trading privileges to

¹¹⁰ *Ibidem* pp. 251–252.

Jourdain, he vowed to “build a castle at Hitto and burne their towne.” A Gujarat merchant spoke with Jourdain about the Hituese desire to trade with him and their mortal fear of the Dutch. According to the merchant, VOC officials had already entered “many mens howses perforce” in order to remove all cloves, lest the Hituese “should sell them to us.” Captain Hitu had little choice but to give in to Dutch pressure. Accompanied by a few orangkays, his son apologized to Jourdain during a nightly meeting aboard the *Darling*. He even offered to smuggle 100 *bahars* of cloves to Ceram for Jourdain’s sake, though nothing came of it. Meanwhile, Coteels had become a frequent guest aboard the English ship. At first, Coteels assured Jourdain that he would receive a cargo of cloves from the Dutch factories at Ceram; then he urged him to meet with Coen, newly arrived from Bantam, who objected to his intention to visit the village of Luhu at Ceram. Yet the Englishman was fed up to the back teeth with Coteels’ “lying tongue” and “sleeve-lesse” promises. In spite of Dutch threats to shadow him wherever he went—“I bad them doe their worst”—Jourdain set sail for Ceram on 31 March/10 April 1613.¹¹¹

The *Darling* reached Luhu at 3 PM that same afternoon, shortly followed by “our persecutors.” On the evening of their arrival, Coen and Coteels had a meeting behind closed doors with Kimelaha Sabadin, Governor of Ceram on behalf of his nephew, the Sultan of Ternate. They held talks with the orangkays of Luhu the following morning. Kimelaha Sabadin was given the unenviable task of informing the English captain that he would not be allowed to trade at Ceram. The Governor tried to mollify Jourdain by explaining that he could not defy the VOC officials without an express order from his master, the Sultan of Ternate—“with whom the Dutch had greate league.” Jourdain was nonetheless extremely annoyed at this refusal. Why had he been invited to Luhu in the first place? Kimelaha Sabadin replied that he had sent the invitation to Hitu believing the English to be “friends with the Hollanders,” and that he had only discovered his mistake afterwards. Although he was sorry to disappoint Jourdain, he did not dare to incur the displeasure of the Dutch, “alleginge their great force of shipping at Amboina and Turnattee.” Two VOC merchants added insult to injury when they came aboard

¹¹¹ Ibidem pp. 253–256 (diary entries of John Jourdain, 27–31 March 1613 (o.s.)).

the *Darling* that night to poke fun at Jourdain and his small vessel. Yet the nettled Englishman was certainly capable of hitting back hard. One day the Dutch would have to answer for their injustices “betwixt Dover and Callice [e.g, Calais]; with many other wordes which I omitt.”¹¹²

The VOC merchants had indeed cried victory too early. Right after their departure, the Sabandar of Luhu and four orangkays came aboard the *Darling* to apologize for the Governor’s treatment of Jourdain, and explained that Kimelaha Sabadin had been appointed “by order of the Dutch to prevent tradinge with other nations.” They reported that VOC officials had threatened to set fire to the village and carry its inhabitants off as prisoners to Ternate if they dared to trade with the English. Another favorite tactic of the Dutch was to bring their competitors into disrepute among the villagers. VOC officials in the Spice Islands denounced the English as “a petty nation,” unable to “sett out above six ships,” let alone to defend indigenous peoples from their enemies. Jourdain’s interlocutors declared that they knew better, of course. They had learnt from the Portuguese that there would be no “Hollanders livinge” if it was not for the fact that his country had supported the fledgling Dutch Republic in its war of independence against the King of Spain and Portugal. If for no other reason, they should rather trade with Jourdain than with the Dutch. The chiefs of Luhu had, in fact, agreed to meet the following morning in order to reconsider his request for trading privileges.¹¹³

The chiefs’ meeting of 2/12 April 1613 was no secret to the VOC officials at Luhu. When Jourdain went ashore, he was taken to the Dutch factory, where Coen received him “in a chollericke manner.” The young commander accused the Englishman of buying cloves in countries “under their proteccion” and thus disobeying the “comision given by Sir Henrie Middleton.” In reply, the English captain

¹¹² Ibidem pp. 257–259 (diary entries of John Jourdain, 31 March–1 April 1613 (o.s.)).

The Sultan of Ternate’s sphere of influence reached far beyond the Moluccas proper. In 1611, Pieter Both had even toyed with the idea of making him the ruler of the Banda Islands in order to upstage both English interlopers and their Bandanese supporters. Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 242, 253 (Both to the Gentlemen XVII, 18 July 1611 and 26 July 1612).

¹¹³ Foster, *The Journal of John Jourdain* p. 259 (diary entry of John Jourdain, 1 April 1613 (o.s.)).

counseled Coen to mind his own business. If his “long beard (for he had none at all)” was any guidance, there was little that he could teach Jourdain about the instructions of the EIC directors. The captain of the *Darling* had ample reason to find fault with Dutch harassment and intimidation. It was impossible for him to do any trade because VOC officials followed him wherever he went, “persecutinge us, giveinge us a Judas kisse with faire words, when behinde our backes they sell us.” Coen’s answer to his allegations was to object to the word ‘prosecution’—“they were no Judas,” and to insist that cloves purchased without Dutch consent were “soe much stolen from them.” The Englishman had allegedly offered the Hituese one hundred reals of eight per *bahar*, “all which I did malitiously to make the countrie people breake their contract.” Coen contended that VOC officials had therefore been justified to thwart him “by any means they might.” Jourdain admitted that he had visited Hitu in order to obtain a cargo of cloves, wherein he would have succeeded if Coteels had not persuaded him to wait for permission from Castle Victoria, which never came, of course. Dutch fears that the price of cloves would skyrocket as a result of his visits to Ambon and Ceram were completely overblown in his opinion. He had offered Coteels for each *bahar* of cloves sixteen reals of eight more than the latter had paid the natives, precisely because “it would be a hindrance to you if wee raised the price.” Nor should Coen object to his usage of the word ‘prosecution’, which aptly described the Dutch practice of stalking him. Although the VOC contracts were no concern of his, Jourdain ventured to remark that “the countrie was as free for us as for them,” and complained that the Company officials had scared the natives away from him. The Dutch commander was vehement in his denial. Coen expressed his belief that “the countrie people were noe way willinge to deale with us butt would be glad that wee weare gone.” He had underestimated his interlocutor. The Englishman went straight to the Luhuese chiefs to inform them of Coen’s reply, which created much anger. The chiefs demanded Coen’s immediate attendance at their meeting and boldly declared that they would grant trading privileges to Jourdain if Coen did not come straight away, whereupon he put in an appearance, albeit “in greate collar.” The chiefs cleared themselves of Coen’s imputations by declaring that they would have traded with the captain of the *Darling* if it had not been for Dutch threats to set their houses alight. According to Jourdain, “the countrie people made a greate shoute,” and wholly

approved of the chiefs' proceedings. Twice they asked the VOC officials for a response and twice they received no answer. Jourdain then challenged Coen to deny that the Dutch were responsible for obstructing commerce. "But he answered me with silence, as hee had them."¹¹⁴

The following day, 3/13 April 1613, Kimelaha Sabadin notified Jourdain that he would write to the Sultan of Ternate in order to obtain trading privileges for the English by the next monsoon, and that meanwhile he had given permission for secret clove deliveries. After some haggling over the price—the Luhuese demanded one hundred reals per bahar, but Jourdain refused to pay more than seventy—small quantities of cloves were indeed brought aboard the *Darling*. It was not long before Coen found out about it. He was "very much vext" at the illicit trade and took no halfway measures to prevent it. He ordered two ships from Castle Victoria and relentlessly harassed orangkay Tecos, Jourdain's biggest supporter among the Luhuese chiefs, who was even threatened with decapitation. Coen's tactics were entirely successful. Tecos fell into line again, "perceiveinge the [Dutch] shippes to bee neere." The young commander strengthened his grip on the other Luhuese chiefs as well. They disowned Tecos' trade with Jourdain at their meeting of 10/20 April 1613, much to the orangkay's dismay. The latter was still in a rage when he informed Jourdain of their decision, but admitted that not much could be done at present. The common folk at Ceram knew nothing of the "difference betweene your kinges"—King James and Prince Maurice—and simply compared "the present forces." Perceiving the *Darling* to be outnumbered, they had broken their promise to Jourdain for fear of the two Dutch warships anchored at Hitu. The orangkay could only hope and pray that things would be different the following year, "the yeare of the greate monson of cloves." If Jourdain returned with two or three vessels, Tecos would arrange for the Luhuese to pay the VOC "what they owe" and nothing more. As it was, "manye poore men" obtained cottons from VOC factors "at greate rates for their necessitie." In return, they

¹¹⁴ Ibidem pp. 259–263 (diary entry of John Jourdain, 2 April 1613 (o.s.)).

Jourdain claimed to have English witnesses for his own verbal exchanges with Coen and the meeting of the Luhuese chiefs, notably "George Cockaine, Nicholas Bangham, Benjamyn Fary, Phillip Badnedge, juribassa, Abraham the cockson, and other standers by of the ships companie."

promised to sell the Company all their spices—"the contract which the Dutch soe much talketh of."¹¹⁵

Jourdain was ready to leave Luhu and try his luck elsewhere. Yet the *Darling* was becalmed while crossing over to Ambon on 20/30 April 1613. Kimelaha Sabadin took the opportunity to pay Jourdain a farewell visit, seated in a proa and accompanied by the chiefs of Luhu. They pleaded with him to return to Ceram with two or three ships the following year, in which case they would provide a rich cargo for each of his vessels. They were confident that they would have settled their debts by then and vowed to take drastic action if the Dutch should still demand any cloves after that. They did not want to remain "in such slavery," but longed to be free "to sell their goods to him that would give most for them." If worst came to worst, they would not hesitate to destroy the spice trade at Ceram by cutting down their own clove trees and withdrawing to the mountains. This dramatic scenario held few attractions for Captain Hitu, who was the object of Jourdain's second visit to Ambon. He positively refused to entertain the Englishman's request for trading privileges, and explained that "the Hollanders had sett greate penalties on his head if he suffred butt one pound of cloves to be sould unto us." The captain of the *Darling* was free to return the following year, of course, when the Hituese would pay off their debts to the VOC and be at liberty again to sell "to whome they would." Jourdain got the hint: he was no longer welcome at Hitu. When the wind rose, he set course for the village of Kambelu at Ceram instead. Yet his quest for cloves would be equally unsuccessful at Kambelu—Coen had preceded him in this place as well. The *Darling* lay at anchor off Kambelu for approximately nine days and departed for Bantam on 3/13 May.¹¹⁶

The story of Jourdain's voyage was a very different one from the perspective of four VOC officials: Jasper Janssen Jr., Governor of Ambon, senior merchant Steven Coteels, Commander Jan Pieterszoon

¹¹⁵ Foster, *The Journal of John Jourdain* pp. 263–268 (diary entries of John Jourdain, 3–11 April 1613 (o.s.)).

The chiefs' meeting of 10/20 April 1613 notwithstanding, Jourdain continued to receive small quantities of cloves from the Luhuese through 12/22 April at least.

¹¹⁶ Foster, *The Journal of John Jourdain* pp. lvi, 270, 272 (Jourdain's diary entries of 20 and 24 April 1613, (o.s.)); Rietbergen, *De Eerste Landvoogd Pieter Both* p. 282 (Both to the Gentlemen XVII, 1 Jan. 1614).

Coen and the Dutch Governor General, Pieter Both. Each of them wrote to the VOC directors about the Englishman's visits to Ambon and Ceram. They unanimously concluded that both Jourdain and the natives could not care less about the VOC contracts, and asked the directors either to give orders for the establishment of a Dutch fortress at Ceram or to enter into negotiations with the EIC in Europe. In their view, Jourdain's interloping should not be treated as an isolated phenomenon. Both Coteels and Coen drew explicit comparisons with Saris' voyage to the Moluccas, for example. All four letter writers assumed that it was the EIC's intention to lodge English merchants in the Spice Islands by stealth, and leave it to the Dutch to fight the Spanish and Portuguese. They were convinced that free trade stood or fell with the Company's victories over Iberian forces, and resented the ingratitude and shortsighted opportunism of both their English competitors and the Company's indigenous allies. It was clear to them that the inhabitants of the Spice Islands had no qualms whatsoever about breaking the delivery contracts. The latter gladly accepted English gifts and bribes, and happily sold their spices to any interloper who offered a few reals of eight more than the VOC did. Yet the directors' own contradictory orders were the greatest point of concern for the letter writers. If the Gentlemen XVII were serious about creating a monopoly of the spice trade, they should not restrict the use of force to cases of self-defense. For the time being, Coteels and Coen decided to adhere to the letter, but not the spirit, of the directors' ambiguous instructions. They drafted attestations which suggested that Captain Hitu and Kimelaha Sabadin had asked for Dutch assistance against Jourdain and that, in driving him away from Ambon and Ceram, VOC officials had simply fulfilled the Company's obligation to defend its indigenous allies against all enemies. A different picture emerged from their correspondence with the VOC directors. It was impossible for them to conceal that outright intimidation of the natives had been instrumental in obstructing English trade. In all probability, this crucial piece of information never reached Grotius.¹¹⁷

¹¹⁷ *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. I pp. 10–14 (Coen to the VOC directors, 1 January 1614) and Vol. VI pp. 451–474 ('Discourse addressed to the VOC directors', 1 January 1614); Dutch National Archives, Grotius Papers, Supplement I, f. 111 (deposition of Willem Noblet and Cornelis Dirksen, 11 April 1613), f. 113 (deposition of Noblet, Cornelis van Neck

Coteels gave a detailed account of Jourdain's visit to Hitu in his letter to the Amsterdam VOC directors of 17 May 1613. The merchant reported that Jourdain had offered to buy cloves from the Hituese at one hundred reals of eight per *bahar*, and that, initially at least, the Englishman had been eager to conclude a gentleman's agreement with the VOC officials. Jourdain had proposed a deal whereby they would sell him a cargo of cloves at a slightly higher rate—ten reals per *bahar* more—than they had paid for it themselves, in exchange for a promise on his part not to return to Ambon and Ceram. The letter writer admitted that he had been all in favor of the gentleman's agreement, but had failed to convince Janssen and Coen. When the deal fell through, Jourdain had tried to spend his way into the favor of the Hituese. The VOC officials, Coen among them, had opposed him every step of the way—"we worked against him with conversations." The natives had finally consented to deliver a cargo of cloves to the Englishman and charge him seventy reals per *bahar* for it, provided he would obtain Dutch approval first. It soon dawned upon Jourdain that he had been tricked by the Hituese, who were happy to take his presents, yet remained faithful to the VOC all the same. Out of spitefulness, he had changed his tactics according to Coteels, and had tried to get his way by means of blatant intimidation of the Hituese. When he failed in his attempt, he had left in high dungeon for the village of Luhu at Ceram.¹¹⁸

To Coteels' relief, his colleagues had managed to reach Luhu before Jourdain did. Prior to his arrival, they had showered the natives with gifts in order to ensure their compliance with the delivery contracts. Kimelaha Sabadin and the Luhuese chiefs had confirmed their loyalty to the Company on the condition that they would be paid more for their cloves. The VOC officials had decided to postpone

and Gerrit Hendricxz Rotgans, 12 April 1613), f. 114 (deposition of Noblet, Steven Coteels, Hans Meerman and Van Neck, 13 April 1613); Dutch National Archives, VOC 1056 f. 41v, 45r–46r and 67r–v (Steven Coteels to the Amsterdam VOC directors, 17 May 1613, and Jasper Janssen Jr. to the same, 31 May 1613); Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 282, 294, 339–340 (Pieter Both to the *Gentlemen XVII*, 1 Jan. 1614, and Both to the Dutch Estates General, 1 Jan. 1614).

¹¹⁸ Dutch National Archives, VOC 1056 f. 45r, 67r (Coteels to the Amsterdam VOC directors, 17 May 1613, and Janssen Jr. to the same, 31 May 1613).

According to Jasper Janssen Jr., the captain of the *Darling* had offered to buy cloves from Coteels at a price that was five, not ten, reals of eight per *bahar* higher than what Coteels paid to the Hituese.

the price negotiations until the next monsoon when it made more sense to renegotiate the current rate because of the bountiful harvest expected. The Luhuese chiefs had been content at this decision and accepted a small VOC loan in order to purchase rice for their village. The Englishman had nonetheless managed to “corrupt” a few of them, offering to buy twenty-five or thirty *bahars* of cloves at seventy reals per *bahar*, which made “our contractors forget their past promises, taking the highest price [instead].” Coteels felt no need to report *in extenso* about subsequent developments at Luhu—“it would take more than a folio sheet to describe everything.” For the directors’ convenience, he enclosed a few attestations that contained all the details. These must be the same as the three depositions extant in the Grotius Papers at the Dutch National Archives.¹¹⁹

In his letter, Coteels mentioned the presence at Ambon of “five big ships and two yachts,” which, he admitted, were necessary “to keep this small nation in check.” The natives were totally inured to the Company’s great expenditure at Ternate, which enabled them “to live in peace and become rich and luxurious.” Coteels begged the directors to take a different approach to English interloping in the Spice Islands for the VOC could not regain its dominant position at Ceram unless there was “force behind it.” Although Jourdain had carefully refrained from any personal interference with “our contracts,” he had actively encouraged the islanders to break them, using plentiful bribes. What was worse, he intended to return with two ships the following year in order to establish an English fortress at Ceram. It was imperative for the VOC to prevent this and build a stronghold at Luhu first. Unfortunately, neither Coteels nor his colleagues had received orders from the Gentlemen XVII as regards the treatment of the English “so that we have to act blindly.”¹²⁰

Jasper Janssen Jr. wrote to the Amsterdam VOC directors on 31

¹¹⁹ Dutch National Archives, VOC 1056 f. 45r–v, 67r (Coteels to the Amsterdam VOC directors, 17 May 1613, and Janssen Jr. to the same, 31 May 1613).

There was nothing extraordinary about the VOC loan to Luhu. According to Coteels, the chiefs had received similar loans on behalf of their village in previous years as well. In his letter to the VOC directors, Janssen Jr. estimated that Jourdain had purchased about twenty *bahars* of cloves in Luhu. This was less than ten percent of the amount of cloves (300 *bahars*) that Jourdain had wanted to buy when he first arrived at Ambon.

¹²⁰ Dutch National Archives, VOC 1056 f. 45v–46r (Coteels to the Amsterdam VOC directors, 17 May 1613).

May 1613 in order to report on his written exchanges with Jourdain. The Governor of Castle Victoria assured the directors that he had sent Jourdain a proper protestation when the latter attempted to obtain trading privileges at Hitu. In the protestation, he had cited the contracts with “all inhabitants here” and made much of Dutch defense spending on their behalf in order to justify his disallowance of English trade. Other VOC officials had meanwhile admonished the Hituese to comply with the delivery contracts. The Hituese had been told that if they violated these, “we would be forced to proceed in a different manner in order to preserve our claim.” Yet Jourdain had answered Janssen’s protest with “imperious arguments.” He had continued to press for permission to trade at Hitu, on the grounds that England was a “free country and kingdom” and that the inhabitants of Hitu, Luhu and Kambelu were “free men,” in no way subject to Castle Victoria. Janssen Jr. had tried to recapture the moral high ground in his reply to Jourdain and spoken of the need to treat each other “in a Christian way, without any subterfuges.” Jourdain had been reminded that clove trees could not grow inside Castle Victoria, but only “in the places surrounding it, for which reason all the costs were incurred relating to fleets, ships and castles.” Could it be right for the English to benefit from Dutch effort and expense? In Janssen’s view, the Bible did not teach that “others should reap where we have sown.” He had given the Englishman another warning not to usurp “our right” or “turn our friends into enemies.” It had made no impression on Jourdain, however, who contended that

he had come from England in order to seek the fruits of his labor in these places—he also threatened to attack the inhabitants if they should refuse him trade—and more reasoning of this kind.¹²¹

Like Coteels, the Governor of Castle Victoria did not elaborate on the events at Luhu, but enclosed copies of three attestations that were allegedly evidence of Jourdain’s intimidation of the natives. He

¹²¹ Dutch National Archives, VOC 1056 f. 67r–v (Jasper Janssen Jr. to the Amsterdam VOC directors, 31 May 1613).

It is not known whether Janssen was the sole author of the official protests lodged with Jourdain, or whether he wrote them together with Coen and perhaps Coteels. No original documents or copies have survived. The contents must be reconstructed from the paraphrases in Jourdain’s diary and Janssen’s letter. Compare Foster, *The Journal of John Jourdain* pp. lv, lvi, 250–252.

echoed Coteels' complaint about the lack of guidance from the VOC directors, whose orders had not reached him. Indeed, he would hardly have known what to do about Jourdain if it had not been for Coen, from whom he understood "it to be Your Honors' opinion that we should treat the English as friends, provided that the latter did not abscond with the Company's profits." He had written to the Governor General for advice as well. Pending Both's reply, he had instituted a policy of appeasement, "giving presents to some chiefs in order to forestall the Englishman's design." The captain of the *Darling* had nonetheless received about twenty *bahars* of cloves from orangkay Tecos, who, ironically, was the brother-in-law of Captain Hitu, the Company's staunchest ally at Ambon. The Luhuese chiefs had at first excused themselves—Tecos had allegedly acted on his own initiative, without their consent, and they had offered to pay the Company five hundred reals of eight in damages. Yet the VOC officials had discovered after further investigation that Tecos' illicit trade with Jourdain bore the sanction of the Luhuese chiefs. When the latter were forced to admit "their grievous mistake," they had expressed their willingness to send representatives to Castle Victoria in order to negotiate "a fixed price for their cloves," as well as to "obligate themselves and their children not to deliver cloves to any other nations." In Janssen's view, the Company could have saved itself much trouble if it had reconfirmed the contracts before Jourdain's arrival. Yet he admitted that the price negotiations at Castle Victoria had not gone smoothly. Even Both's arrival from Banda on 13 May 1613 had failed to persuade the representatives of Luhu to lower their demands. An agreement had been reached only when two Dutch merchants went over to Ceram. The orangkays of Luhu would sell all the cloves harvested during the next monsoon to the VOC, charging sixty-six reals per *bahar*, "with express promise not to trade with the English."¹²²

Six months passed before Jan Pieterszoon Coen put his pen to paper to inform the VOC directors about his dealings with Jourdain. Significantly, his letter bears the same postmark—Bantam, 1 January 1614—as Both's own address to the Gentlemen XVII, wherein the Governor General complained loudly about their misguided approach

¹²² Dutch National Archives, VOC 1056 f. 67v–68v (Janssen Jr. to the Amsterdam VOC directors, 31 May 1613).

towards English interloping in the Spice Islands. Both's views on the issue were heavily influenced by Coen, in fact. This was not altogether surprising: the Governor General informed the Gentlemen XVII that he held the young man in high esteem, and that he had just appointed him Director of Trade for all the VOC factories in the East Indies as well as President of the trading posts at Bantam and Jakarta. The epistolary reports of Both and his protégé shared another characteristic. The events at Ambon and Ceram were evaluated in a systematic fashion and put into a broader historical perspective, which was sorely lacking in the letters that Coteels and Janssens wrote right after Jourdain's departure from Kambelu at Ceram.¹²³

Coen prefaced his remarks about Jourdain with a brief description of the geography of Ambon and Ceram and a critical analysis of the VOC's military, political and socioeconomic position in these islands. He posited that Castle Victoria was of questionable value to the VOC because of its impractical location, far away from the cloves-producing areas. The Ambonese living at the Ley-Timor Peninsula were obedient enough, but did not harvest any quantities of cloves to speak of. It was only the villages of Hitu at Ambon and Luhu and Kambelu at Ceram that wallowed in spices. Yet their inhabitants could hardly be called subjects of the Castle or even of the Sultan of Ternate. They refused to contribute anything to the Dutch war effort beyond the toll owed to the Sultan and the clove deliveries that were due to the Company. Coen had little sympathy for indigenous *mores* and deplored "the fickleness and disloyalty of this people," which he considered "very great." He repeated that Castle Victoria was altogether useless for waging an offensive war against the natives "should it be necessary." Had English interlopers arrived any sooner than they did, the situation would have been far worse, however. The inhabitants of Hitu, Luhu and Kambelu had been well served by the delivery contracts, which did not list a fixed rate for cloves, an unpardonable omission. The villagers had "tormented us with the price," and threatened to sell their wares to "strangers" if the VOC did not start paying more. Coen alleged—

¹²³ Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 294–295, 298 (Both to the Gentlemen XVII, 1 Jan. 1614) and 307, 337 (Both to the Gentlemen XVII, 10 November 1614); *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. I pp. 10–14 (Coen to the VOC directors, 1 Jan. 1614).

it is not clear on whose authority—that they had already invited the English to Ambon and Ceram “some years ago.” The Luhuese had even expressed their intention of “killing thirty, forty Dutchmen at some point, like the Bandanese had done,” which would force the Company to “give them big presents in order to satisfy them again.” In other words, the VOC had been in a weak position at Ambon and Ceram even before the arrival of the *Darling*, though Coen was the first to admit that its captain “created no few difficulties” of his own accord.¹²⁴

When news of Jourdain’s arrival reached Castle Victoria, Coen had been commissioned by the Governor to meet with the chiefs of Hitu, Luhu, and Kambelu in order to remind them of their contract with the VOC and explain the possible consequences if they gave the Englishman permission to trade. According to Coen, the orangkays had assured him without exception that they would not violate their contracts, “but remain with us,” provided, so the Luhuese chiefs added, “that you be mindful of us and keep your promise.” Captain Hitu had indeed stayed true to his word, Jourdain’s bribes notwithstanding. The Englishman had been loath to accept defeat, however, and had threatened to attack the Hituese, “as shown by the three enclosed attestations.” (In all likelihood, these were copies of the sworn statements that had already been sent to the Company directors by Coteels and Janssen Jr. —it was VOC policy to make multiple copies of all official documents, and use different ships to carry them to Holland in order to minimize the impact of shipwrecks, etc.) The Gentlemen XVII could also look forward to a deposition “drawn up by the orangkays of Hitu themselves,” which, Coen knew, the Governor General had appended to one of his own letters.¹²⁵

Unfortunately, the Luhuese chiefs had failed to display the same constancy as Captain Hitu. After Jourdain’s arrival in their village, Coen was forced to engage in “many conversations and disputes with him, for he—a smart man—omitted no proposal that might further his goal of leaving people ashore and obtaining trade.” The VOC commander admitted, however, that Kimela Sabadin should

¹²⁴ Jan Pietersz. Coen: *Bescheiden Omtrent Zĳjn Bedrijf in Indië* ed. Colenbrander Vol. I pp. 10–14 (Coen to the VOC directors, 1 Jan. 1614).

¹²⁵ Ibidem; Rietbergen, *De Eerste Landvoogd Pieter Both* p. 305 (Both to the Gentlemen XVII, 1 Jan. 1614).

be credited with the Englishman's initial disappointment at Luhu. The Ternatan Governor, who enjoyed "great prestige" and favored the Dutch "very much," had declined every single one of Jourdain's proposals. "Yea, he could not even get a license to build a hut, wherein (he said) he wanted to dry some of his wet goods." Coen had meanwhile proceeded to the next village of Kambelu, confident that the Luhuense chiefs would stand firm. This had proven to be a costly mistake. In his absence, Orangkay Tecos—"a proud man and for a long time a great friend of ours"—had sold the Englishman a cargo of cloves. He had demanded satisfaction at his return to Luhu, "silently threatening them [i.e. the orangkays] with our power and might," which consisted of five warships riding at anchor near Castle Victoria. In his letter, he conveniently forgot to mention the verbal humiliation that he had suffered at Jourdain's hands in a meeting of the Luhuense chiefs. He merely reported that an agreement had been reached "after many disputes." The village chiefs, "excusing the orangkay and assuming responsibility for the crime," had promised not to deal with Jourdain anymore and agreed to pay a fine of five hundred reals of eight. They had even consented to severely punish anyone who failed to abide by this arrangement. If an ordinary inhabitant of Luhu was caught trading with the English, he would be sentenced to death. If the chiefs themselves engaged in collective recidivism, it would be up to the Dutch to punish the village, either by ransacking or destroying it, in which case the establishment of a fortress could be an option as well. In exchange for these concessions, Coen had promised the chiefs fair and reasonable negotiations about the rate of cloves, provided they would go to Castle Victoria and treat with the Governor directly. The delaying tactic had been Coen's idea. Otherwise the Company might well have been completely deprived of cloves from Ceram. The Luhuense were free to demand a higher price under the current contract. Had VOC officials refused outright to pay more than fifty reals per *bahar*, the villagers would have been fully entitled to do business with Jourdain. Yet Coen's agreement with the chiefs had not had the desired effect of getting rid of Jourdain. When the latter got wind of it, he had immediately offered to reimburse the chiefs for the fine that they had promised to pay to the VOC. It had been the proverbial last straw for Coen and his colleagues, who had sent Jourdain an official protest and resolved to prevent him "with force." Yet they had been in two minds about this. Jourdain had been expected to leave soon anyway

for hardly any cloves had been left on the island. It seemed logical to postpone the use of violence till “some better time,” or perhaps leave it at the discretion of “Your Honors” altogether.¹²⁶

Much to Coen’s distress, the ghost of English interloping had continued to stalk the fields of Ambon and Ceram even after Jourdain’s departure to Bantam. The chiefs of Hitu, Luhu and Kambelu had been slow to send representatives to Castle Victoria, and when they finally did, they insisted on a steep increase in the price of cloves. In their view, the new rate should be eighty reals of eight per *bahar* at the very minimum. Coen held orangkay Tecos responsible for these outrageous demands. Without Tecos’ meddling, the Luhuense chiefs would have been content with seventy reals of eight per *bahar*. They had changed their minds when Tecos called them “fools,” saying “I have made a deal with the English for 100 reals per bahar.” Tecos had even boasted that he would receive English assistance against the Dutch upon Jourdain’s return the following year. Coen had been unable to determine whether Tecos had indeed entered into a formal alliance with Jourdain, or whether the orangkay had spread a rumor solely to obtain a higher price for his cloves. Yet whichever way Coen looked at it, he could not avoid the conclusion that “we are always being cheated.” The young commander was not alone in his worries. Captain Hitu was equally embittered at the arrogance of the Luhuense chiefs. He had urged VOC officials to establish a stronghold at Ceram and offered his assistance to that effect. It was not without reason that he had taken such a hard-line position. According to Coen, “the Luhuense call Captain Hitu a slave of the Dutch, as he does not raise his head and keeps quiet.” In the midst of this turmoil, three more VOC vessels had cast anchor off Hitu, “so that we now had eight ships at our disposal, which perplexed the Luhuense not a little.” Yet Coen had been unable to play his trump card, much to his regret. The Governor General had reached Castle Victoria on 13 May 1613 and returned to the Moluccas immediately, taking all eight ships with him as a precaution against the “great attacks expected from the enemy.” Nor was Coen particularly enthusiastic about the deal that Steven Coteels and Abraham

¹²⁶ Jan Pietersz. Coen: *Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. I pp. 10–14 (Coen to the VOC directors, 1 January 1614); Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 282–283.

van den Broeck had struck with the Luhuese chiefs shortly afterwards. He concluded that Jourdain's voyage had cost the VOC "a big sum of money," considering the number of presents that had been distributed to all the orangkays in order to "maintain our right." He was very critical of these developments. In future, the VOC should either be less insistent with regard to its monopoly of trade in the Spice Islands or "proceed according to right and natural authority." If the directors continued to rely on their alliance with the natives, they would have to accept "these inconveniences" into the bargain.¹²⁷

Pieter Both realized that something needed to be done as well. In his letter to the Gentlemen XVII of 1 January 1614, the Governor General briefly summarized Reael's experiences with Saris in the Moluccas and Coen's dealings with Jourdain at Ambon. The Governor General was clearly familiar with Reael's correspondence and the attestations drawn up at Coen's request. He enclosed a letter (no longer extant) of Captain Hitu, "whereby Your Honors can see for yourselves how the English have treated us." The Gentlemen XVII should realize that Jourdain had purchased a small quantity of cloves in the village of Kambelu at Ceram and that he had threatened to attack the inhabitants of the neighboring village of Luhu when they rejected his request for trading privileges. What was worse, the Englishman had reviled the Dutch in the presence of the Company's indigenous allies. He had alledged

that we [i.e. the Dutch] are rebels and cannot sail without license of their king [i.e. James I] and that they [i.e. the English] were duty bound to inquire after our procedures here; also that our castles and contracts force the inhabitants to deliver their spices to nobody else but us, making them our slaves.¹²⁸

Both did not have any illusions about the natives' commitment to the VOC, or rather, the lack of it. Even if they owed huge sums of money to the VOC, they preferred to sell their spices to the highest bidder and do business with the English, just to "avoid paying their arrearage." Another complication was the large number of

¹²⁷ Jan Pietersz. Coen: *Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. I pp. 10–14.

¹²⁸ Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 294–295, 305 (Both to the Gentlemen XVII, 1 January 1614).

Anglophiles among the Company's own servants. In Both's experience, they did not have the VOC's best interest at heart, and were not to be trusted. The case of Mateo Coteels was notorious in this respect. A nephew of the Dutch ambassador in London, he had been the head of the VOC factory in Bantam, the Company's most important trading post, from 1610 until his death in 1612, and revealed all its secrets to Sir Henry Middleton. When Both wrote to the Gentlemen XVII in November 1614, he expressed the suspicion that Steven Coteels harbored Anglophone sympathies as well, and promised to "attend to the matter before my departure [for Holland]." Nor did the Governor General hesitate to confront the VOC directors with the deleterious consequences of their own orders. As Both put it in his letter of January 1614, "we have no greater enemies in these countries than the English, yet we are supposed to caress them as our worthy allies." He wished the directors would resolve these difficulties "either through negotiations or otherwise." If they did not take action soon, the English would end up "shearing the sheep and we the pigs."¹²⁹

As noted above, Grotius was not terribly well-informed about Jourdain's voyage to Ambon and Ceram. He never received copies of the letters of Coteels, Janssen Jr., Coen and Both, for example. The little he knew he must have obtained from the three attestations that survive in his personal papers at the Dutch National Archives. The depositions had been drawn up at Coen's request, and were date-marked 11 April 1613—the day that Jourdain crossed over from Ambon to Ceram—and 12 and 13 April 1613—the first and second day after his arrival there. They tended to confirm Grotius' view of the VOC as the great liberator and protector of indigenous peoples. The message conveyed was a deceptively simple one: Captain Hitu and Kimelaha Sabadin had been mistreated by Jourdain because of their steadfast loyalty to the VOC, and had asked for Company assistance in order to get rid of the troublesome Englishman. Judging by the letters of Coteels and Janssen Jr., the depositions were an accurate reflection of the arrangements which Coen had made with the chiefs of Hitu and Luhu in the middle of April 1613, when he had been largely in control of the situation. Yet these documents were altogether silent about what had hap-

¹²⁹ Rietbergen, *De Eerste Landvoogd Pieter Both* pp. 149, 157, 160, 294–295, 336.

pened after Coen's departure for Kambelu. Jourdain had seized the opportunity to trade with orangkay Tecos and befriend the Luhuese chiefs, who had sided with him, however briefly, at Coen's return to the village. Nor did the sworn statements mention the unsavory methods employed by Coen to bring the orangkays into line again. To all intents and purposes, Grotius was told only half the story.¹³⁰

The three attestations were the brainchild of Jan Pieterszoon Coen. In all probability, Captain Hitu and Kimelaha Sabadin were 'persuaded' by the young commander to say exactly what he thought the VOC directors wanted to hear. It is clear from the depositions of 11 and 12 April 1613 that Coen did not have a free and open-ended discussion in mind for his meetings with the two native leaders. His courtesies notwithstanding, Captain Hitu and Kimelaha Sabadin were expected to answer some very specific and evidently leading questions. Was it true, as Coen understood from Coteels, that "the English captain had threatened hostilities against them if they did not trade with him"? Captain Hitu replied that it was so. Three other orangkays, who had been present at Captain Hitu's conversation with Jourdain, were asked to confirm this. "Each answered separately that the aforesaid English captain had made these threats when they were aboard his ship one evening and that it had filled them with fear." Kimelaha Sabadin was also invited to share his thoughts on the nefarious intentions of John Jourdain. According to the second sworn statement, the Governor of Ceram acknowledged that he had met the Englishman in person the previous day. Jourdain had offered to pay the Luhuese a higher price for their cloves than the VOC officials did, but had also threatened to seize all Luhuese "junks, proas and goods" if he was refused permission to trade there. The third attestation was allegedly a Dutch eye-witness account of a conversation between Kimelaha Sabadin and three VOC merchants. Kimelaha Sabadin had addressed the latter in the presence of the Luhuese chiefs and expressed a desire "that we should dismiss the Englishman at his request, for (he said) 'you are whites and

¹³⁰ Dutch National Archives, Grotius Papers, Supplement I, f. 111 (deposition of Willem Noblet and Cornelis Dirksen, date-marked 11 April 1613 in the Dutch factory of Hitu at Ambon), f. 113 (deposition of Noblet, Cornelis van Neck and Gerrit Hendricxz Rotgans, date-marked 12 April 1613 in the Dutch factory of Luhu at Ceram), f. 114 (deposition of Noblet, Steven Coteels, Hans Meerman and Van Neck, date-marked 13 April 1613 in the Dutch factory of Luhu at Ceram).

we blacks, and we are not capable of defending ourselves against the whites’.” He had wanted the merchants’ assurance that the Company would stand by him and the Luhuese chiefs, just in case three or four English ships should arrive there from Bantam. It goes without saying that the merchants had vouched for the VOC’s military and naval assistance, “as we are obliged by contract to support them against their enemies.”¹³¹

All this must have been music to the ears of Grotius and the VOC directors. But was it true? The orangkays, for one, must have realized that Jourdain did not pose a serious danger to the villages of Hitu and Luhu, his boisterous bravado notwithstanding. The *Darling* was outgunned by the VOC warships that patrolled Ambonese waters, which would not stand idly by if Jourdain resorted to force, regardless of whether the orangkays asked for protection or not. There were other incongruities in the sworn statements as well. They barely hinted, for example, at the fierce lobbying that went on behind the scenes—the orangkays received just as many gifts from Coen as from Jourdain—nor did they discuss the deep political divisions within the indigenous elites, which pitted pro-Dutch against pro-English factions. It serves to show that the attestations were the work of one man, Jan Pieterszoon Coen. The future Governor General understood, better than any other VOC official, the importance of controlling the flow of information. He successfully imposed his views on the likes of Coteels, Janssen Jr. and Both, all of whom were together at Castle Victoria in the middle of May 1613. Ironically, their four reports on the voyage of Jourdain were to a large extent responsible for the confusing, not to say wholly erroneous, instructions which the Gentlemen XVII sent to Asia in April 1615. The VOC directors issued the new orders in the wake of the second Anglo-Dutch colonial conference, which, like the first, failed to resolve the problem of EIC interloping in the Spice Islands.

¹³¹ *Ibidem*.

It was a committee of three VOC servants, acting on behalf of the Governor of Castle Victoria, which met with Captain Hitu and Kimelaha Sabadin at the Dutch factories of Hitu and Luhu, respectively. The names of the committee members are mentioned in the preambles of the attestations: senior merchants Steven Coteels and Nicolaas Puyk, and, of course, Commander Jan Pieterszoon Coen. Of these three, Coen was undoubtedly the highest in rank and treated as such, both by the other committee members and the indigenous leaders.

The English negotiators made much of the alleged mistreatment of Saris and Jourdain in their third memorandum of 23 February/6 March 1615. The voyages of the *Darling* and *Clove* provided the Dutch and English delegations with ample ammunition for another round of angry recriminations. Clement Edmondès made no bones about the fact that he brought up these cases in order to “disprove your contracts” and expose “your proceedings for the appropriating of the sole trade to yourselves.” Jourdain’s own account of his verbal exchanges with Coen was ideally suited for that purpose. When the Dutch commander insisted, in Edmondès’ words, that “they had contracted for all the commodities of that countrye,” Jourdain had gone straight to the Luhuese chiefs, who “utterly denyed it at a publicke assembly in the presence of your factors.” Edmondès observed with quiet satisfaction that the orangkays had expressed their willingness to trade with Jourdain “as they did with other nations,” whereupon they had “sold us their cloves.”¹³²

Nothing could be further from the truth according to Grotius. In his reply of 2/13 March 1615, he pitied the English negotiators for being so “greatly abused” by their informants. Who could have been so ignorant as to believe that “the people of Hitto in a publicke assembly and in presence of our factors did disavowe the contract made with us for the delivery of their fruites”? Grotius knew better, of course, thanks to the attestations forwarded to him by the VOC directors. Lacking reliable sources, Edmondès must have misunderstood the outcome of the orangkays’ meeting, which Grotius found minutely described in one of the depositions. It was true that Dutch merchants had been present at an assembly of Luhuese chiefs, which had been presided over by Kimelaha Sabadin. Yet the orangkays had resolved nothing that came even close to a disavowal of the VOC contract. On the contrary, they had denied trading privileges to Jourdain precisely because of their contract “with our men, which they would not breake without their consents.” Nor could the captain of the *Darling* be called a true friend of the natives. He had refused to take ‘no’ for an answer and threatened the Luhuese chiefs “with all acts of hostilitie.” The implication was clear: the VOC remained the sole protector and liberator of indigenous peoples in

¹³² British Library, Additional Manuscripts 12.498 f. 28r (third English memorandum of 23 Feb./6 March 1615).

the East Indies. The natives could count on the VOC to defend them against all enemies, whether Iberian or English.¹³³

Grotius and Edmondes were once again talking at cross-purposes, which was fairly symptomatic of both conferences. A historical and legal framework that could serve as the basis for a compromise between the two trading companies remained as elusive in 1615 as it had been in 1613. The English negotiators had come to The Hague without any proposals of their own. Grotius did not take the initiative either. His remit was simply to correct the ‘mistakes’ of the English negotiators. He tried to turn the historical record against them and argued passionately for the validity of the VOC contracts, including the Company’s right to enforce them. The result was a fruitless back and forth between Grotius and Edmondes, which took up six memorandums and an equal number of replies. Grotius suggested at long last that the EIC might share in the trade of the Spice Islands if it joined the VOC’s military and naval campaigns in the East Indies. Against their better judgement, the English negotiators were forced to backtrack, due to King James’ reluctance to put the peace with Spain at risk. The second Anglo-Dutch colonial conference, like the first, ended without an agreement between the two trading companies.

The VOC directors expressed their disappointment at the fruitless negotiations in their letter to the Governor General and the Councilors of the Indies of 30 April 1615. The EIC was to blame for everything, of course. Their High Mightinesses had affirmed their unwavering support for the VOC when Grotius informed them about the collapse of the negotiations. Without a “*vive et juste defense*” of the natives, there could be no trade-sharing arrangement between the VOC and EIC. If the trading companies came to blows in the East Indies, the VOC directors were confident that the Dutch Estates General and even King James would side with them, not with their London counterparts. They made it clear that their highest priority was still a monopoly of trade in the Spice Islands. Yet they gave no orders for preemptive strikes against English interlopers. The use of violence was admissible only for self-defense, that is if the English attacked the VOC or its native allies. In all other cases, the English

¹³³ Ibidem f. 30r-v (Grotius’ reply to the third English memorandum, 2/13 March 1615).

would still have to be treated as friends and allies, and would have to be supplied with water and victuals as well. Did Grotius inspire these concessions? The author of *De Jure Praedae* argued that it was a transgression of the natural law to deny water and food to peaceful travelers. His contract and rights theories had certainly lost none of its appeal for the VOC directors. The Governor General and Councilors of the Indies received a detailed account of the negotiations, especially of Grotius' replies to the "frivolous arguments" of Edmondos. The VOC directors clearly disliked the English negotiator and resented his attempt to redefine freedom of trade and navigation. *Mare Liberum* had always been more than a pamphlet to them. It was, to all intents and purposes, VOC ideology.¹³⁴

According to the letter of the VOC directors, the English delegation had been expected to either table its own proposal at the start of the conference or elicit one from Grotius, "having crossed the sea at the insistence and desire of the King in order to treat with us." None of this had happened. Instead, the English negotiators had expressed their desire to exchange written memoranda and submitted a short summary of the proceedings in 1613. They had restated their demand for free trade in the Spice Islands "under pretext of the freedom competent to all nations *iure gentium*, as well as some other frivolous reasons." In reply, Grotius had again explained why it was "neither reasonable, nor lawful, nor expedient" to grant their request. As a matter of equity and fairness, the EIC could not expect to enjoy the profits of the spice trade when "we have born the excessive costs and risks alone." A commercial transaction must be considered illegitimate if it required the natives to break their contracts with the VOC, which had been concluded "for the protection of their land, life and property against the tyranny of the Spanish" and confirmed "with solemn oaths and vows." The natives could not lawfully "sell to another, to whom they had no prior tie or obligation," what they had first sold or promised to the VOC. Grotius had detected another legal absurdity as well. Yes, freedom of trade was "everybody's due under the law of nations." Yet the natives could no longer avail themselves of this freedom once they had used it to sell their goods "so dearly" to the VOC. According

¹³⁴ Dutch National Archives, VOC 312 ff. 148–155, printed in *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. IV pp. 296–303.

to Grotius, it was a contradiction in terms to suggest otherwise. The VOC directors would also be guilty of great imprudence if they gave the EIC access to the Spice Islands. The war against the Spanish and Portuguese, “which has consumed all our resources,” could not be continued if the profits went to a third party which refused to join the war effort. Money was, after all, the sinews of war. A Dutch withdrawal from the East Indies would leave Philip III in total control of the lucrative spice trade “because of the insufficiency of the natives to withstand the Spanish.” Grotius had entreated the English negotiators to submit a different proposal, so that “we, joined together, might oppose Spain’s power.” It was in the interest of both parties to oust the Iberian forces from the East Indies.¹³⁵

Yet the English negotiators had entertained a different opinion. They had declared that their countrymen were quite capable of fending off the Iberian forces on their own. Captain Thomas Best had allegedly defeated “over three hundred Portuguese” in clashes off the coast of Surat in November and December 1612 (o.s.). A joint offensive against the *Estado da India* was not necessary at all. The English negotiators had insisted on free trade in the Spice Islands, citing both the law of nations and Sir Francis Drake’s contract with the Sultan of Ternate (1579). Naturally, Grotius had refuted both arguments, but to no avail. The English negotiators had refused to recognize that Drake’s contract did not ban the Dutch, or anybody else, from trading at Ternate, and that the EIC fell far short of assisting “the distressed King against his enemies.” Edmondes had submitted five more memorandums filled with “frivolous reasons,” and then called for a face-to-face meeting between the two delegations because “little progress had been made by corresponding with each other.” Grotius had not complied with Edmondes’ request immediately. Instead, he had demanded a straightforward answer to a straightforward question. Did the English negotiators “consider it absolutely necessary to wage war for the protection of the Indians, so that the trade there might be honorably defended from enemy attack, and were they resolved to take up arms alongside us”? Grotius had shown them some “letters of the King of Spain and Bishop of Malacca,” which proved that “we were forced into war by the Spanish, both before and after the Truce.” Citing the Treaties of Guarantee, he had argued that the signatories—Henry IV, James I,

¹³⁵ Ibidem.

and the Dutch Estates General—were obliged to defend the spice trade with all possible means. The English negotiators had not been convinced. After three face-to-face meetings, they had thanked the Dutch delegation for its efforts and declared themselves satisfied regarding “the first point of their commission.” Alas, they had not been authorized to sign a treaty mandating a joint Anglo-Dutch offensive against the Spanish in the East Indies.¹³⁶

The VOC directors were unclear about what to do next. They wrote to the Governor General and Councilors of the Indies that they had given up on a treaty with the EIC, unless “His Majesty of Great Britain” took the matter in hand, which, they realized, would not happen anytime soon. The London merchants did not seem at all interested in pursuing an agreement with the VOC. According to the directors’ information, they planned to send five ships to the East in order to “occupy some point” at Ceram or in the Banda Islands, or at least to obtain trading privileges by means of “presents, higher prices or force of arms.” It might well result in the Company’s “total ruin and demise,” so the directors agonized, certainly if other VOC officials adopted Reael’s cautious approach towards English interlopers. The directors’ censure was inappropriate. Reael had been very effective in preventing English trade at Batjan. Nor could their counter orders be called clear and straightforward. They urged VOC officials to defend the inhabitants of the Spice Islands against English attack, in accordance with the treaties of alliance. It was a strange suggestion, undoubtedly prompted by Coen’s tales about the intimidation and harassment that Captain Hitu and Kimelaha Sabadin had allegedly suffered at the hands of Jourdain. In his reply of 18 July 1616, Reael put his finger on the problem. The Governor General pointed out that, with few exceptions, the islanders had traded with the English of their own free will. To be fair to the VOC directors, they had considered this possibility in their letter of 30 April 1615, albeit very briefly. If the islanders broke the contracts voluntarily, it would be best to subject their proas to visitations, “castigating and rigorously punishing those

¹³⁶ Ibidem; Foster, *England’s Quest of Eastern Trade* pp. 234–237. The letters shown by Grotius to the English negotiators were undoubtedly the ones included in the appendix of *Mare Liberum* and, significantly, a letter that he had wanted to attach to a published version of *De Jure Praedae*. Compare *The Free Sea* ed. Armitage pp. 61–62 and Grotius, *Commentary on the Law of Prize and Booty* Vol. I pp. 366, 380–384 (an English translation of the “letter of the Bishop of Malacca” will appear in Grotius, *Commentary on the Law of Prize and Booty* ed. Van Ittersum, forthcoming).

who deal with the English.” The ‘rebels’ should be filled with “fear and awe” in order to discourage any recidivism. Yet the directors were much more worried about English intentions to establish a foothold in the Spice Islands. It proved a perfect excuse for going off on their hobbyhorse again, the Company’s duty to defend the natives against English attack. The Governor General and Councilors were ordered not to spare any EIC servants who had the temerity to attack VOC ships or personnel, or, worse, “the persons or goods of our allies.” The directors were clearly in two minds about who or what posed the greater threat to a monopoly of trade in the Spice Islands, English interloping or the natives’ insubordination.¹³⁷

The directors’ confusion and indecision shone through in the text of a draft protest, which they included in their letter to the Governor General of 30 April 1615. If hostilities seemed imminent, VOC officials should send English interlopers a written warning, which spelled out the former’s obligation to take up arms “for the protection of your allies and in defense of the contracts and your masters’ claim.” It was imperative to remind the interlopers that “our nation” had undertaken to protect “several Indian kings and peoples against the violent oppression of the Spanish, Portuguese and their allies.” The natives had “reciprocally” promised not to sell spices to anybody else, without which “our nation would not be able to defray the excessive costs and carry the burdens of the aforesaid strenuous defense.” EIC servants must not attempt anything that interfered with the delivery contracts, and refrain in particular from “stealing the fruits due to us through such a lawful cause.” If they complied with this request, they would be treated with great civility, and, indeed, as the Company’s “best friends.” They would, for example, receive fresh water and victuals if they needed it. The directors’ draft protest ended on a familiar note. The VOC could not be held responsible for any untoward consequences that might follow from English recalcitrance. Its officials were under orders to “maintain the contracts with all possible means” if EIC servants tried to “divert the Indians from honoring the aforesaid contracts or sought to harm the allies of our nation.” The directors were confident of the support of the Dutch Estates General and even James I if fighting broke out between the Dutch and the English in the East Indies. They would rather deal with new EIC complaints than witness “the total loss

¹³⁷ Dutch National Archives, VOC 312 ff. 148–155, printed in *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. IV pp. 296–303.

and destruction of all our trade.” Yet the Governor General and Councilors of the Indies received no clear guidance as to whether the use of force was permissible in order to prevent EIC trade in the Spice Islands. What should a VOC official do if English interlopers engaged in peaceful trade with the natives, and at the latter’s explicit request? This question remained unanswered in the directors’ letter and draft protest.¹³⁸

6.4 Conclusion

If the directors’ letter revealed anything, it was the practical limits of Grotius’ rights and contract theories. He had first developed his ideas in order to justify Van Heemskerck’s capture of the *Santa Catarina*, and the wholesale privateering campaign that Oldenbarnevelt had imposed on the Company in November 1603. When Grotius wrote *De Jure Praedae*, his task was to persuade VOC shareholders that short-term profits from peaceful trade paled into insignificance beside the long-term advantages which they, together with the Dutch Estates General and indigenous peoples of Asia, could expect from a sustained assault on the Portuguese colonial empire. The Estates of Holland and the Dutch Estates General also needed to be reminded that the VOC had adopted an aggressive military and naval strategy at their behest and for the greater good of the United Provinces. Because of the war in the East Indies, the King of Spain and Portugal received fewer colonial revenues and could spend less money on the Flanders front. The reverse was true as well. The Dutch Admiralty Board profited handsomely from the prizes captured by VOC warships and the *custum* returns generated by the spice trade. In Grotius’ view, the Estates of Holland and Dutch Estates General were under a moral obligation to return the favor. Without government-sponsored loans of warships and cannons, there was no way the VOC could engage the *Estado da India* for years on end. It was equally important for the Company to have the political backing of the Estates of Holland and Dutch Estates General. The costs of warfare in the East Indies were so prohibitive that the VOC directors could not possibly continue the privateering campaign if they had to share prize money with all and sundry (i.e. Dutch municipal and provincial

¹³⁸ Dutch National Archives, VOC 312 ff. 156–157.

magistrates, Portuguese New Christians, neutral merchants like Francisco Carletti, etc., etc.), rather than reinvest it in the Company. Although *De Jure Praedae* remained unpublished until the nineteenth century, Grotius used its argument to great effect in several petitions which the VOC directors submitted to the Dutch Estates General, both before and during the Twelve Years' Truce. As lobbyist and ideologue, he was instrumental in generating strong and steadfast support for the Company at the highest levels of government in the United Provinces.

The Peace and Truce negotiations of 1607–1609 had seen the most successful application of Grotius' rights theories. The memorandum which he prepared for the Gentlemen XVII in January 1608, detailing three arrangements for the East Indies trade in case peace was made in Europe, became the official policy of the Dutch Estates General in its negotiations with the Archdukes and Philip III. Oldenbarnevelt's insistence on freedom of trade and navigation did, in fact, contribute to the failure of the Peace negotiations. The King of Spain and Portugal refused to sign a peace treaty unless it stipulated a Dutch withdrawal from the East Indies. The Archdukes were willing to make big concessions, however, and constantly undercut the position of Philip III. In the case of the Truce treaty, they agreed to a secret amendment, never endorsed by Philip III, which made the treaty applicable on both sides of the Line. In practice, the war was prolonged in the East Indies, something that Grotius had considered the most likely outcome all along. The publication of *Mare Liberum*, albeit too late to influence the Truce negotiations, served to justify the continuation of hostilities to an international audience. Truce or no Truce, the Dutch considered it a solemn duty to fight for the freedom of trade and navigation that Habsburg monarchs had unjustly denied to fellow rulers and their subjects in Europe and Asia.

Yet the Company's self-image as liberator and protector of the natives could not be treasured for long. The mirror cracked in the spring of 1609, when Verhoef established a fortress at Neyra in the teeth of native opposition, and William Keeling was forcibly prevented from trading in the Banda Islands. From a legal perspective, Grotius' reasoning at the Anglo-Dutch colonial conferences must be called watertight. It was entirely consistent with *De Jure Praedae* to argue that a) freedom of trade ended where contracts began, and that b) the VOC could enforce its contracts with the natives in the absence of an independent and effective judge. Yet the Pensionary of Rotterdam never made a strictly legal case for freedom of trade

and navigation. The natives' liberation from Portuguese tyranny was also meant to be honorable and beneficial, both for the VOC and the infant Dutch Republic. Since natural law did not command human beings to behave in a purely altruistic fashion, the author of *De Jure Praedae* considered it all the more praiseworthy that his compatriots risked their own lives and possessions in order to restore the sovereignty and self-determination of Asian princes and peoples. As Cicero taught in *De Officiis*, however, virtue could not be its own reward—a cause that was honorable and just entailed material benefits as well. Out of gratitude for their liberation, Asian rulers had become trading partners of the VOC and allies of the Dutch Estates General. These Ciceronian ideals were still propagated by Grotius and the VOC directors at the Anglo-Dutch colonial conferences. At that point, Grotius should have known better. It was clear from the sources at his disposal that VOC officials in the Spice Islands used both fair means and foul to get rid of English interlopers, with little regard for the liberty and sovereignty of the natives. Significantly, Grotius never succeeded in convincing the English negotiators of the contrary. His rights and contract theories had long since ceased to be applicable to the situation on the ground in the East Indies.

The Gentlemen XVII admitted as much in their letter to the Governor General and Councilors of the Indies of 26 November 1616. They apologized profusely for the “scrupulous orders” given in the aftermath of the negotiations at The Hague, and decried the cautious policies of Laurens Reael, who was recalled to Holland. Jan Pieterszoon Coen took over the reigns of power at their behest. Conquest and colonization were the watchwords of his first tenure as Governor General from 1619 until 1623. Coen is chiefly remembered for his brutal policy of ethnic cleansing in the Banda Islands in 1621, which resulted in the judicial murder of forty orangkays and the enslavement of an entire population. Clearly, the VOC paid a high moral price for rigorously enforcing the delivery contracts in the Spice Islands. It effectively destroyed the natives' freedom of trade and navigation.¹³⁹

¹³⁹ Dutch National Archives, VOC 312, f. 438–470 (Gentlemen XVII to the Governor General and Councilors of the Indies, 26 Nov. 1616); Loth, ‘Armed Incidents and Unpaid Bills: Anglo-Dutch Rivalry in the Banda Islands in the Seventeenth Century’ pp. 705–740; George Masselman, *The Cradle of Colonialism* (New Haven: Yale UP, 1963) pp. 335–423; *Jan Pietersz. Coen: Bescheiden Omtrent Zijn Bedrijf in Indië* ed. Colenbrander Vol. IV pp. 351–364, 539, 550 (Gentlemen XVII to Coen, 14 April 1622).

EPILOGUE

When Grotius published *Mare Liberum* in 1609, he realized that his plea for freedom of trade and navigation would not find immediate or even wide acceptance. He fully expected “that some Spaniard would write a reply to my little book, a thing which I hear was done at Salamanca.” To his surprise, the first response that appeared in print was not written by a Catholic author, but by a Scottish Protestant, William Welwood, who took issue with his theory of property. This one-time Professor of Civil Law at the University of St. Andrews argued in *An Abridgement of All Sea-Lawes* (1613) that the sea was not incapable of possession and that it had, in fact, been appropriated by mankind at the command of “the great Creator and author of all.” Grotius discussed Welwood’s criticism in his correspondence with Johan Boreel in the spring of 1614. His rejoinder, *Defense of Chapter V of Mare Liberum*, was a forceful restatement of the ideas that he had already developed in *De Jure Praedae*. He denied that the sea could be owned by anyone and that freedom of trade and navigation, including freedom of fishing, could be limited by bogus claims of possession. He contested the evidence cited to the contrary in *An Abridgement of All Sea-Lawes*, particularly Welwood’s biblical quotations and his interpretation of the *Corpus Iuris Civilis*. Significantly, Grotius prefaced his *Defense of Chapter V of Mare Liberum* with a short explanation of why he had first written *De Jure Praedae*, and then published its twelfth chapter as a separate pamphlet. Grotius admitted that his aim had been to secure Dutch trade in the East Indies, which he considered the best guarantee for the political and military survival of the United Provinces. It is worth citing Grotius in full:

A few years ago, when I saw that the commerce with that India which is called East was of great importance for the safety of our country and it was quite clear that this commerce could not be maintained without arms while the Portuguese were opposing it through violence and trickery, I gave my attention to stirring up the minds of our fellow-countrymen to guard bravely what had been felicitously begun, putting before their eyes the justice and equity of the case itself, whence I thought was derived “the confidence” traditional with the ancients.

Therefore, the universal laws of war and of prize, and the story of the dire and cruel deeds perpetrated by the Portuguese upon our fellow-countrymen, and many other things pertaining to this subject, I treated in a rather long *Commentary* which up to the present I have refrained from publishing.

But when, a short time thereafter, some hope for peace or truce with our country was extended by the Spaniards, but with an unjust condition demanded by them, namely, that we refrain from commerce with India, a part of that *Commentary*, in which it was shown that this demand rested neither upon law nor upon any probable color of law, I determined to publish separately under the title of *Mare Liberum*, with the intention and hope that I might encourage our countrymen not to withdraw a tittle from their manifest right, and might find out whether it were possible to induce the Spaniards to treat the case a little more leniently, after it had been deprived not only of its strongest arguments but also of the authority of their own people. Both of these considerations were not without success.

Grotius was as good as his word. He could not have given a better description of the political circumstances that prompted him to develop a new natural law and natural rights theory, or of its practical consequences for Dutch policy-making, both by the VOC directors and Their High Mightinesses.¹

De Jure Praedae must be read in the context of both Dutch interloping in *Asia Portuguesa* and the Eighty Years War fought between the United Provinces and the King of Spain and Portugal. Grotius' political patron, Oldenbarnevelt, had established the VOC largely out of political and military considerations. His aim had been twofold: a) to widen the scope of the armed conflict, which had been limited to Europe until then, and b) to tap greater amounts of merchant wealth for the sake of the common cause. The establishment of the VOC did coincide, of course, with some halfhearted Portuguese

¹ Grotius, *The Free Sea* ed. Armitage pp. 67, 77–78; *Briefwisseling van Hugo Grotius* Vol. 17 p. 111.

The Latin text of Grotius' *Defense of Chapter V of Mare Liberum* was published by Samuel Muller in his *Mare Clausum: Bijdrage tot de geschiedenis der rivaliteit van Engeland en Nederland in de zeventiende eeuw* (Amsterdam, 1872) pp. 331–361. Herbert F. Wright translated it into English as part of his 'Some Less Known Works of Hugo Grotius' in: *Bibliotheca Visseriana XVIII* (Leiden: Brill, 1928) pp. 131–234. Chapter 27 of Welwood's *Abridgement of All Sea-Lawes* and Wright's translation of *Defense of Chapter V of Mare Liberum* are reproduced in David Armitage's edition of *The Free Sea*.

efforts to prevent Dutch trade in the East Indies, which were largely unsuccessful. Grotius combined both perspectives in *De Jure Praedae* and fully endorsed Oldenbarnevelt's policies towards the VOC. Although the capture of the *Santa Catarina* had really been an isolated incident, Grotius recast it as the first shot across the bow of the *Estado da India*, which made the war against Habsburg tyranny a truly global one. In chapter eleven of *De Jure Praedae*, he told a long and tearful story of alleged Portuguese mistreatment of innocent Dutch merchants, cleverly mixing the latest news from Asia with such well-worn tropes as the Spanish Black Legend. Once he had proven that his compatriots were the injured party, he argued in chapters twelve through fifteen that Van Heemskerck had set the right example in his indiscriminate attacks on Portuguese shipping, which conformed to Cicero's criteria for moral action. In the given circumstances, privateering should be considered just, honorable and beneficial for Dutch merchants and magistrates alike. Indeed, it is hard to see how the VOC could have gone on the offensive in the East Indies without the backing of Grotius' rights and contract theories. He was the only political thinker who stated explicitly that private merchants could fight a just war on their own account. In the absence of an independent and effective judge, they had the right to punish transgressors of the natural law, and enforce freedom of trade and navigation. He was equally unconventional in his insistence that the VOC should keep faith with its indigenous allies at all times, even if there was a (potential) conflict with the Christian moral code. He treated the murder of Sebald de Weert by the King of Kandy as a cautionary tale in this respect. Chapters thirteen through fifteen of *De Jure Praedae* reveal that he was a major theorist of mercantilism as well. Like Oldenbarnevelt, he considered the VOC a military arm of the Dutch Estates General and actively promoted its involvement with the Company. In his view, the United Provinces stood to gain as much from an Asian war as the VOC. A second front in the East Indies should give the fledgling new state a decisive advantage on the European battlefield and bring it greater international recognition as well. A sustained privateering campaign would deprive Philip III of his colonial revenues, an important source of funding for the Army of Flanders, and force him to spend more money on the defense of his overseas empire. The Dutch Admiralty Board, on the other hand, could look forward to an increased yield

of the twenty percent tax on booty, which should put its finances back into order. Finally, the Company's victories would redound to the honor of the United Provinces and undoubtedly result in alliances with Asian princes. All this served to show that, even though the war of independence was still ongoing, the United Provinces had already become a fully sovereign and independent state. Strong words indeed. Slated for a brilliant career in Dutch politics, Grotius had no difficulty putting theory into practice.

An unyielding VOC apologist, Grotius repeated the argument of *De Jure Praedae* in the memoranda and letters that he drafted for the Company directors, many of which were subsequently submitted to the Dutch Estates General and Estates of Holland. Thanks to his efforts, both government bodies were persuaded to intercede on the VOC's behalf on numerous occasions. They did not just lend it diplomatic support and adjust the law of prize and booty when necessary, but also provided it with warships, guns and ammunition on a regular basis. As a result, the Company emerged victorious from the battles at home and abroad. A few executive orders from the Estates of Holland and Dutch Estates General made it possible for the VOC directors to claim the *St. Jago* and *Santa Catarina* for the regional trading companies, of which they were the main investors and effective care-takers. The Florentine merchant Francisco Carletti and the Portuguese New Christians could not prevent the confiscation of the *St. Jago*, nor did the Friesland College of the Admiralty Board, the County of Holland or the town of Amsterdam share in the spoils of the *Santa Catarina*. The VOC's commercial interests were secured by means of Dutch diplomacy as well. Under pressure from the Dutch Estates General, Henry IV of France shelved his plans for the establishment of a French East India Company in 1606. More importantly, the Archdukes dropped their demand for a Dutch withdrawal from the East Indies during the Peace and Truce negotiations of 1607–1609, much to the chagrin of Philip III, who had given very different instructions to the rulers of the Southern Netherlands. In each instance, Oldenbarnevelt used pointedly Grotian arguments to secure the Company's commercial interests. The Advocate of Holland was equally supportive of the VOC during the Anglo-Dutch colonial conferences of 1613 and 1615. At his instigation, Grotius joined the Dutch negotiating team on both occasions, and doggedly defended the VOC's monopoly of trade in the Spice Islands.

Both Oldenbarnevelt and Grotius agreed that English interloping was (at best) a free ride at the expense of those who were truly committed to eradicating Habsburg tyranny from the face of the earth. Grotius conducted the negotiations with the EIC to the full satisfaction of both Oldenbarnevelt and the VOC directors. His diplomatic successes did have some disturbing moral and intellectual implications.

Ever loyal to Company and country, Grotius tailored his right and contract theories to the exigencies of Dutch colonialism and imperialism. Freedom of trade and navigation was ultimately less important than a Dutch victory in the war of independence against Philip III of Spain and Portugal, which, in his view, could not be won without the Company's financial, military and naval assistance. To be sure, he argued at both colonial conferences that the VOC had always kept to the letter of the (natural) law. He refused to admit that the Company had already violated it in spirit by stifling commercial competition both at home and abroad. There was much truth in the accusation of the English negotiators that the VOC wanted rights and liberties for itself only. Grotius' famous plea for freedom of trade and navigation seemed little more than a fig leaf for the VOC's naked self-interest: its desire to have exclusive access to key markets and sea lanes in the East Indies. They also pointed out that Grotius' glorified image of the Company as both the liberator and protector of indigenous peoples did not bear much resemblance to reality anymore. Grotius must have realized as much himself if he carefully read the detailed information that the VOC directors sent him regarding John Saris' visit to the Moluccas in 1613. The correspondence of Laurens Reael showed quite clearly that the inhabitants of Ternate sold their cloves to the Company because of Dutch harassment and intimidation, not out of their own free will. To be fair to Grotius, some of what he received from the directors was rather ambiguous, such as the attestations concocted by Jan Pieterszoon Coen. Both Grotius and the directors were tricked into believing that the majority of the Ambonese chiefs had rejected the overtures of John Jourdain in 1613 and demanded protection against the English instead. Yet it should be said that Grotius impatiently dismissed all countervailing evidence presented to him by the English negotiators, and explicitly denounced the Bandanese for their failure to perform the delivery contracts, calling them pernicious rebels. Not much was left of the original purpose of his rights and contract

theories. *De Jure Praedae* had been written in order to a) expose the intellectual vacuity of the Iberian claims to universal monarchy, and b) strengthen the VOC directors in their resolve to fight a war of liberation in the East Indies, not just for their own sake, but also for the sake of the poor oppressed natives. He had therefore argued in *De Jure Praedae* that military alliances between Calvinist merchants and infidel princes were legitimate and that the VOC was entitled to punish the Portuguese for abrogating a universal freedom of trade and navigation. His rights and contract theories acquired a far more conservative flavor at the Anglo-Dutch colonial conferences. His target was no longer the Habsburg colonial empire, but English interloping in the Spice Islands. He cited the natural law principle *pacta servanda sunt* (contracts must be honored) in order to justify the Company's strong-armed tactics to prevent trade between English merchants and the indigenous peoples. He emphasized that the delivery contracts signed by the inhabitants of the Spice Islands remained binding even if these treaties deprived them of their right of self-determination, be it their economic independence or political sovereignty or both. The VOC's right to punish violators of the natural law was increasingly directed against indigenous peoples, rather than the Spanish and Portuguese. Grotius refused to admit that Verhoef's murder in 1609 had sparked a bloody civil war in the Banda Islands, for example. Instead, he insisted that the VOC had the right to 'sue' the Bandanese for breach of contract and quell any form of opposition in a just war. Although Grotius cannot be held responsible for Coen's brutal subjection of the Banda Islands in 1621, his rights and contract theories certainly facilitated the rise of Dutch power in the East Indies at the beginning of the seventeenth century. Significantly, it was this illiberal side of his rights and contract theories that appeared in print in *De Jure Belli ac Pacis*.

It takes more than one study of Grotius' involvement with the VOC to reconstruct the various historical context(s) of his political theory and its practical implications. My own efforts in this regard should be regarded as a first step. There is plenty of archival research that still needs to be done. The difficulties are well-known. The famous Nijhoff auction of 1864 had the unfortunate effect of separating Grotius' personal papers from his unpublished manuscripts. While most of the unpublished manuscripts ended up in Leiden University Library, the personal papers were dispersed among numerous

libraries and archives in The Netherlands. This has hardly been conducive to studying the interrelationship of thought and action in Grotius' political career. Another barrier is, of course, Grotius' own handwriting, which many scholars have found notoriously hard to decipher. As a result, very little archival research has been done on any aspect of his thinking, and certainly not in a systematic fashion. Most legal historians limit their reading to the tried-and-tested territory of printed books, preferably in English translation, of course, and, if they are interested in Grotius, they usually do not venture any further than *De Jure Belli ac Pacis*. With the notable exception of Peter Borschberg's edition of the *Commentary in Eleven Theses* and the modern editions of Grotius' theological works by G.H.M. Posthumus Meyjes, Edwin Rabbie and Harm-Jan van Dam, little or no effort has been made to a) relate the manuscript material to Grotius' published writings or b) tease out its political implications, particularly in Grotius' own lifetime. The humanist training of Grotius is still somewhat of a mystery, for example. What was his understanding of classical rhetoric and which rhetorical strategies did he adopt in his long and distinguished career as a historian, lawyer, politician and theologian? In addition, next to nothing is known of Grotius' use of rights and contract theories in his own legal practice, first as a lawyer accredited to the Court of Holland (*Hof van Holland*), then as Solicitor General of Holland (*Advocaat-Fiscaal*). The Grotius papers in Leiden University Library and the Dutch National Archives contain a wealth of material on exactly these topics. The critical edition of Grotius' correspondence, recently completed by Dr. H.J.M. Nellen and Dr. C.M. Ridderikhoff, should open up new avenues of research as well. In other words, the field is wide-open for scholars who are seriously interested in integrating Grotius' politics with his political theory.²

² Hugo Grotius, *Meletius sive De iis quae inter Christianos conveniunt Epistola* ed. and trans. G.H.M. Posthumus Meyjes (Leiden: Brill Publishers, 1988); G.H.M. Posthumus Meyjes, 'Some Remarks on Grotius' Excerpta Theologica, Especially Concerning his Meletius' in: *Hugo Grotius, Theologian: Essays in Honor of G.H.M. Posthumus Meyjes*, ed. H.J.M. Nellen and Edwin Rabbie (Leiden: Brill Publishers, 1994) pp. 1-17; Borschberg, *Hugo Grotius' Commentarius in Theses XI*; Hugo Grotius, *Ordinum Hollandiae Ac Westfrisiae Pietas (1613): Critical Edition* trans. and ed. Edwin Rabbie (Leiden: Brill, 1995); Hugo Grotius, *De Imperio Summarum Potestatum Circa Sacra* ed. and trans. Harm-Jan van Dam 2 vols. (Leiden: Brill Publishers, 2001).

Grotius' minor works in Leiden University Library are the subject of two important articles by Peter Borschberg: "De Pace: Ein unveröffentlichtes Fragment von Hugo Grotius über Krieg und Frieden", and 'De Societate Publica cum Infidelibus: Ein Frühwerk von Hugo Grotius'. Prof. Borschberg is preparing a monograph-length exposée of the manuscripts in BPL 922-I in Leiden University Library.

The only existing studies of Grotius' university training and his legal practice are two articles by C.M. Ridderikhoff and R. Huijbrecht, respectively. Please consult Ridderikhoff, 'De Universitaire Studies van Hugo de Groot' and Huijbrecht, 'Hugo de Groot als Advocaat-Fiscaal van het Hof van Holland, Zeeland en West-Friesland, 1607-1614'.

Jordy Bell analyzes Grotius' historical writings in her unpublished Ph.D. thesis 'Hugo Grotius, Historian', completed at Columbia University in 1973. In chapter three, she discusses Grotius' rhetorical strategies in the *Annales et Historiae*. The "politics of history" are analyzed in chapter six. Her treatment of these issues is not very satisfactory, however, and pays little attention to the Grotius papers in Leiden University Library, which contain extensive reading notes on the writings of Greek and Roman rhetoricians. Compare Leiden University Library, BPL 922-IV, fol. 411-444.

Jan Waszink briefly discusses Grotius' humanist training in a modern edition of Grotius' *The Antiquity of the Batavian Republic* (Assen: Van Gorcum, 2000) pp. 20-23. He is engaged in a post-doctoral research project on the *Annales et Historiae* at the University of Nijmegen, and has recently published an article about Tacitism in seventeenth century Holland. He shows that Grotius' correspondence with the French historian Jacques de Thou is an important source for reconstructing Grotius' criteria for writing contemporary history. (Compare Waszink, 'Tacitisme in Holland: de *Annales et Historiae de Rebus Belgicis* van Hugo de Groot' pp. 245-248.) Two other articles will soon appear as well: 'Grotius' *Annales et Historiae de Rebus Belgicis* in Grotius' correspondence' in *LLAS: Sources and Documents Relating to the Early Modern History of Ideas* and 'New Documents on the prohibition of Grotius' *Annales et Historiae* by the Roman Index' in *Grotiana* (2005).

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